A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1879.

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TITLES

OF

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1879.

I. An Act to consolidate and amend the law relating to Stamps.

II. to make better provision for recording evidence in the Central Provinces.

III. to authorize the destruction of Useless Records.

IV. to consolidate and amend the law relating to Railways in India.

V. to amend the Presidency Banks Act, 1876.

VI. for the preservation of wild elephants.

VII. to provide for the temporary appointment in the Panjáb of an Additional Financial Commissioner.

VIII. to amend the North-Western Provinces Land-Revenue Act, 1873, and the North-Western Provinces Local Rates Act, 1878.

IX. to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

X. to provide for the recovery of certain advances made to Landholders.

XI. The Local Authorities Loan Act, 1879.

XII. An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.

XIII. to amend the law relating to Civil Courts in Oudh.

XIV. for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

XV. to appoint Commissioners for the Port of Rangoon.

XVI. to restrict the transport of Salt by Sea.

XVII. for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

XVIII. to consolidate and amend the law relating to Legal Practitioners.

XIX. An Act to amend the law in force in Thánás Raipur and Khattra.

XX. to provide for the better prevention of Glanders and Farcy among Horses.

XXI. to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Exd.—J.G.

THE STAMP ACT, 1879.

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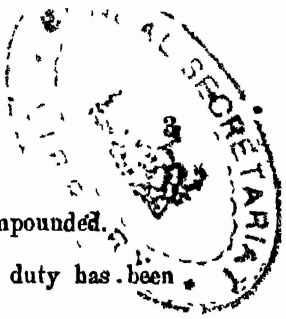

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ACT No. I OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 17th January 1879*).

An Act to consolidate and amend the law relating to Stamps.

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called "The Indian Stamp Act, 1879:"

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of April, 1879.

Repeal of enactments. **2.** On and after that day, the Acts specified in the third schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules made under the General Stamp Act, 1869, and then in force shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto, shall be deemed to be made to this Act.

Interpretation-clause. **3.** In this Act, unless there is something repugnant in the subject or context,—

"Banker." (1.) "Banker" includes a bank and any person acting as a banker:

"Bill of exchange." (2.) "Bill of exchange" includes a hundí:

"Bill of lading." (3.) "Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to

to deliver the same at a place and to a person therein mentioned or indicated:

"Bond." (4.) "Bond" means—

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(*b*) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(*c*) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another:

"Chargeable." (5.) "Chargeable" means, as applied to an instrument executed or first executed after this Act comes into force, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed:

"Cheque." (6.) "Cheque" means a bill of exchange drawn on a banker and payable on demand:

"Chief Controlling Revenue-Authority." (7.) "Chief Controlling Revenue-Authority" means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay, a Revenue Commissioner: in Sind, the Commissioner: in the Panjáb, the Financial Commissioner; and elsewhere, the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office:

"Collector" (8.) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official

official Gazette, appoint in this behalf by name or in virtue of his office:

(9.) "Conveyance" means any instrument by which property (whether movcable or immoveable) is transferred on sale: "Conveyance."

(10.) "Duly stamped," as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed: "Duly stamped."

(11.) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-Authority: "Instrument of partition."

(12.) "Lease" means a lease of immovcable property and includes also "Lease."

(*a*) a pattá,

(*b*) a kabúliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immoveable property,

(*c*) any instrument by which tolls of any description are let, and

(*d*) any writing on an application for a lease intended to signify that the application is granted:

(13.) "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over specified property: "Mortgage-deed."

(14.) "Paper" includes vellum, parchment or any other material on which an instrument may be written: "Paper"

(15.) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: "Policy of insurance."

It includes a life-policy:

(16.) "Power-of-attorney"

"Power-of-attorney." (16.) "Power-of-attorney" means any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act in the stead of the person executing it:

"Receipt." (17.) "Receipt" means any note, memorandum, writing or advertisement whereby any money or any bill of exchange, cheque or promissory note is acknowledged to have been received, or whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person:

"Schedule." (18.) "Schedule" means a schedule to this Act annexed:

"Settlement." (19.) "Settlement" means any non-testamentary disposition in writing, of moveable or immoveable property, made—

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or

(*c*) for any religious or charitable purpose:

It includes an agreement in writing to make such a disposition:

"Vessel." (20.) "Vessel" means anything made for the conveyance by water of human beings or property:

"Written," "writing." (21.) "Written" and "writing" include every mode in which words or figures can be expressed upon paper.

Schedules to be read as part of Act. 4. The schedules and everything therein contained shall be read and construed as part of this Act.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments 5. Subject to the exemptions contained in the second

second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say— Instruments chargeable with duty.

(*a*) every instrument mentioned in the first schedule, and which, not having been previously executed by any person, is executed in British India on or after the first day of April, 1879;

(*b*) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India; and

(*c*) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

6. Where, in the case of any sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule. Several instruments used in single transactions.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act. Instruments relating to several distinct matters.

Subject to the provisions of the first clause of this section, an instrument so framed as to come within two or more of the descriptions in the first schedule shall, where the duties chargeable thereunder are different, Instruments coming within several descriptions in schedule I.

ferent, be chargeable only with the highest of such duties; but nothing herein contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Power to reduce or remit duty.

8. The Governor General in Council may, by order published in the *Gazette of India*,

(*a*) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(*b*) cancel or vary such order to the extent of the powers hereby given.

B.—Of Stamps and the Mode of using them.

Duties how to be paid.

9. Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained, or

(*b*) when no such provision is applicable thereto—

as the Governor General in Council may by rule direct.

The rules made under this section may, among other matters, regulate—

(1) in the case of each kind of instrument—the description of stamps which may be used,

(2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,

(3) in the case of hundís—the size of the paper on which they are written.

Use of adhesive stamps.

10. The following instruments may be stamped with adhesive stamps, namely:—

(*a*) instruments chargeable with the duty of one anna,

anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(*b*) bills of exchange, cheques and promissory notes drawn or made out of British India;

(*c*) entry as an advocate, vakíl or attorney on the roll of a High Court;

(*d*) notarial acts; and

(*e*) transfers by endorsement of shares of public Companies and Associations.

Cancellation of adhesive stamps.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty and which has been executed by any person, shall, when affixing such stamp, cancel the same so that it cannot be used again,

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

How instruments stamped with impressed stamps are to be written.

12. Every instrument written upon paper stamped with an impressed stamp, shall be written in such manner, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written: provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to sec-

14. Every instrument written in contravention of

tion 12 or 13 deemed unstamped.

of section twelve or thirteen, shall be deemed to be unstamped.

Denoting duty.

15. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor General in Council may by rule prescribe.

C.—Of the Time of stamping Instruments.

Instruments executed in British India

16. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments other than bills, cheques and notes executed out of British India.

17. Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India; or, where such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of British India.

18. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same:

Provided that if, at the time any such bill, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by

by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled. But nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion of amount expressed in certain currencies.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale:—

One pound sterling or pound currency is equivalent to ten rupees:

One hundred francs are equivalent to forty rupees:

One Mexican or China dollar is equivalent to two rupees four annas.

Conversion of amount expressed in other foreign currencies.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Stock and marketable securities how to be valued.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be

be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

How transfer in consideration of debt, or subject to future payment, &c., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty.

Valuation in case of annuity, &c.

25. Where an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument, or the consideration for such conveyance (as the case may be), shall, for the purposes of this Act, be deemed to be—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance; and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have been, ascertained, at the date of its execution or

first

first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (*a*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(*b.*) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(*c.*) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(*d.*) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole, or any part, thereof, to any other person or persons, and the property is in consequence conveyed by the original seller

seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(*e*) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller; or where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57 and 60 (*a*) and (*b*) of the first schedule—by the person drawing, making or executing such instrument:

(*b*) in the case of a policy of insurance—by the insured:

(*c*) in the case of a conveyance—by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee:

(*d*) in the case of a counterpart of a lease—by the lessor:

(*e*) in

(*e*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a Revenue-Authority, in such proportion as such Authority directs:

(*f*) in the case of an instrument of exchange—by the parties in equal shares; and

(*g*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

Adjudication as to proper stamp.

30. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable:

Collector may call for abstract and evidence.

and may for that purpose require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Proviso.

Provided that no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable,

able, be relieved from any penalty he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

31. When an instrument brought to the Collector under section thirty is in his opinion one of a description chargeable with duty, and

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section thirty, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is in his opinion not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Nothing in this section shall authorize the Collector to endorse—

any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

32. Every

32. Every payment of a fee under section thirty shall be made in stamps, or cash, as the Governor General in Council may by rule direct. Payment of fees under section 30 how made.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

33. Every person having by law or consent of parties authority to receive evidence, and Examination and impounding of instruments.

every person in charge of a public office except an officer of Police,

before whom any instrument chargeable in his opinion with duty is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act:

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

34. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person Instruments not duly

having

stamped inadmissible in evidence, &c.

having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Proviso.

Provided that—

Instruments admissible on payment of duty and penalty.

1st, any such instrument, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

and in certain criminal proceedings.

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act;

Admission of instrument not to be questioned.

3rd, when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Instruments impounded how dealt with.

35. When the person impounding an instrument under section thirty-three has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty

36. When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-five,

five, he may, if he thinks fit, upon application made to him in this behalf, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or

paid under section 35, 1st para.

when such instrument has been impounded only because it has been written in contravention of section twelve, or section thirteen, he may refund the whole penalty so paid.

37. When the Collector impounds any instrument under section thirty-three, or receives any instrument sent to him under the second clause of section thirty-five, he shall adopt the following procedure:—

Collector's power to stamp instruments impounded.

(*a.*) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall upon application made to him in this behalf deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

(*b.*) If the Collector is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit:

Provided that, when such instrument has been impounded only because it has been written in contravention of section twelve or section thirteen, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (*a*) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

38. If

Instruments unduly stamped by accident.

38. If any instrument chargeable with duty and which is not duly stamped is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections thirty-three and thirty-seven, receive such amount and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only or to a bill of exchange or promissory note.

Endorsement of instruments on which duty has been paid under section 34, 37 or 38.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-four, section thirty-seven or section thirty-eight, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify by endorsement thereon that the proper duty or (as the case may be) the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section thirty-four shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate:

Provided

Provided also that nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

Prosecution for offence against stamp-law.

40. The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument:

Proviso.

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Persons paying duty or penalty may recover same in certain cases.

41. When any duty or penalty has been paid, under section thirty-four, section thirty-seven or section thirty-eight, by any person in respect of an instrument, and by agreement, or under the provisions of section twenty-nine or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid; and for the purpose of such recovery any certificate granted in respect of such instrument under section thirty-nine shall be conclusive evidence of the matters therein certified.

Remission of penalty paid under section 34 or 37.

42. When any penalty is paid under section thirty-four or thirty-seven, the Chief Controlling Revenue-Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

Non-liability for loss of intruments sent under section 35.

43. If any instrument sent to a Collector under the second paragraph of section thirty-five be lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

Copy may be made of instruments so sent.

When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned

mentioned person and authenticated by the person impounding such instrument.

Power of payee to stamp bills, notes and cheques received by him unstamped.

44. When any bill of exchange or promissory note chargeable with the duty of one anna, or any cheque, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in manner hereinbefore provided may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note or cheque.

CHAPTER V.

Reference and Revision.

Procedure where Collector feels doubt as to duty chargeable.

45. If any Collector acting under section thirty, section thirty-seven or section thirty-eight feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty (if any) in conformity with such decision.

Reference by Revenue-Authority to High Court.

46. The Chief Controlling Revenue-Authority may state any case referred to it under section forty-five or otherwise coming to its notice and refer such case with its own opinion thereon, if the case arises in the territories for the time being administered by the Governor of Fort Saint George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay as the case may be: if it arises in the North-Western Provinces or Oudh—to the High Court of Judicature for the North-Western Provinces: if it arises in the territories for the

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the time being administered by the Lieutenant-Governor of the Panjáb—to the Chief Court of the Panjáb: if it arises in the Central Provinces—to the High Court of Judicature at Bombay; and if it arises in any other part of British India—to the High Court of Judicature at Fort William.

Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of Court to call for further particulars.

47. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of reference.

48. The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded: and it shall send to the Revenue-Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue-Authority shall, on receiving such copy, dispose of the case conformably to such judgment.

Reference by other Courts to High Court.

49. If any Court other than a Court mentioned in section forty-six feels doubt as to the amount of duty to be paid in respect of any instrument under the first proviso to section thirty-four, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue-Authority, he would under section forty-six refer the same, and such Court shall deal with the case as if it had been referred under section forty-six, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

References

References made under this section, when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

50. When any Court in the exercise of civil or revenue jurisdiction makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section thirty-four, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration; and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section thirty-four, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section thirty-nine, or in section forty, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which according to the determination of such Court was payable in respect of the instrument under section thirty-four is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty:

Provided

Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section thirty-nine.

CHAPTER VI.

ALLOWANCES FOR SPOILED STAMPS AND STAMPS NO LONGER REQUIRED.

Allowance for spoiled stamps.

51. Subject to such rules as may be made by the Governor General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(*a.*) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any person :

(*b.*) The stamp used or intended to be used for any bill of exchange, cheque or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(*c.*) The stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory

missory note, may have been delivered to the payee; provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note :

(*d.*) The stamp used for any of the following instruments, that is to say—

(1) an instrument executed by any party thereto, but afterwards found by a competent Court to be absolutely void in law from the beginning :

(2) an instrument executed by any person, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) an instrument executed by any party thereto, but which, by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed :

(4) an instrument executed by any party thereto which, for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) an instrument executed by any party thereto which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(6) an instrument executed by any party thereto which becomes useless in consequence of the transaction intended to be thereby effected

ed being effected by some other instrument duly stamped:

(7) an instrument executed by any party thereto which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument—

(*a*) such instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India:

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

Allowance for misused stamps.

52. When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or when any stamp used for an instrument has been inadvertently rendered useless under section fourteen owing to such instrument having been written in contravention of the provisions

provisions of section twelve, the Collector may, on application made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance under sections 51 and 52 how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof (*a*) other stamps of the same description and value, or, (*b*) if required, and he thinks fit, stamps of any other description to the same amount in value, or, (*c*) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction that it was purchased by such person with a *bonâ fide* intention to use it, and that he has paid the full price thereof, and that it was so purchased within the period of six months next preceding the date on which it is so delivered.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Powers to make rules relating to sale of stamps.

55. The Local Government, subject to the control of the Governor General in Council, may make rules consistent herewith for regulating the supply and sale of stamps and stamped papers, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

Power to make rules generally to carry out Act.

56. The Governor General in Council may make rules consistent herewith to carry out generally the purposes of this Act.

57. All

Certain powers exercisable from time to time.

57. All powers to make appointments, rules and orders conferred by this Act may be exercised from time to time as occasion requires.

Publication of rules.

All rules made under this Act, other than rules made under section fifty-five, shall be published in the *Gazette of India*, and all rules made under section fifty-five shall be published in the local Gazette. All rules published as required by this section shall, upon such publication, have the force of law.

Obligation to give receipt in certain cases.

58. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Saving as to Court-fees.

59. Nothing herein contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

Act to be translated, indexed and sold cheaply.

60. Every Local Government shall cause this Act to be carefully translated into the principal vernacular languages of the territories administered by it. A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

CHAPTER VIII.

Criminal Offences and Procedure.

Penalty for executing, &c., instrument not duly stamped.

61. Any person drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped,

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section thirty-four, section thirty-seven or section fifty, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

Penalty for failure to cancel adhesive stamp.

62. Any person required by section eleven to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

63. Any person who, with intent to defraud the Government of any duty,

(*a*) executes any instrument in which all the facts and circumstances required by section twenty-seven to be set forth in such instrument are not fully and truly set forth, or

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits, fully and truly to set forth therein all such facts and circumstances,

shall be punished with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

64. Any person who, being required under section fifty-eight to give a receipt, refuses or neglects to give the same, or who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for not making out policy,

65. Every person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance,

and

and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(*b*) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

or making, &c., any policy not duly stamped.

shall be punished with fine which may extend to two hundred rupees.

66. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to in sets.

67. Whoever, with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made, and whoever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same,

Penalty for post-dating bills, &c.;

and whoever, with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force,

for other devices to defraud the revenue.

shall be punished with fine which may extend to one thousand rupees.

68. Any person appointed to sell stamps who disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69. No

Institution and conduct of prosecutions.

69. No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869, or any Act thereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue-Authority, or any officer auth orized by it in this behalf, may stay any such prosecution or compound any such offence.

Jurisdiction of Magistrates.

70. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

71. Every such offence committed in respect of any instrument may be tried in any district or Presidency-town in which such instrument is found, as well as in any district or Presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Operation of other laws not barred.

72. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it:

Provided that no person shall be punished twice for the same offence.

SCHEDULE I.

SCHEDULE I.

STAMP-DUTY ON INSTRUMENTS.

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper, when such book or paper is left in the creditor's possession		One anna.
2. ADMINISTRATION-BOND		The same duty as a Security-Bond (No. 14).
ADOPTION-DEED ...	See *Instrument, No. 38.*	
3. AFFIDAVIT or declaration in writing on oath or affirmation made before a person authorized by law to administer an oath ... ... *See Exemptions, Schedule II (No. 1).*		One rupee.
4. AGREEMENT TO LEASE		The same duty as a Lease (No. 39).
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT ... *See Exemptions, Schedule II (No. 2).*	(*a.*) If relating to the sale of any Government security, share in a Company or Association or Bill of Exchange	One anna.
	(*b.*) Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the rights so relinquished ...	Four annas.
	(*c.*) If not otherwise provided for by this Act ...	Eight annas.
6. APPOINTMENT, in execution of a power, whether of trustees or of property moveable or immoveable, where made by any writing not being a Will		Fifteen rupees.

chedule.—In article 2 of this schedule after the words dministration-bond" add the following:—	Amending Act.
"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889."	Act VI of 1889.

edule I.—In Article 5, clause (*b*), this schedule for "right" read rights".	∧

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
7. APPRAISEMENT or valuation made otherwise than under an order of the Court in the course of a suit ... ... *See Exemptions, Schedule II (Nos. 3 & 4).*		The same duty as an Award (No. 10).
APPRENTICESHIP-DEED	See *Instrument, No. 31.*	
8. ARTICLES OF ASSOCIATION OF A COMPANY		Twenty-five rupees.
9. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court		Two hundred and fifty rupees.
ASSIGNMENT ...	See *Conveyance, No. 21 and Transfer, No. 60.*	
AUTHORITY TO ADOPT	See *Instrument, No. 38.*	
10. AWARD, that is to say, any decision in writing by an arbitrator or umpire on a reference made otherwise than by an order of the Court in the course of a suit ...	(*a.*) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ...	The same duty as a Bond (No. 13) for such amount.
	(*b.*) In any other case ...	Five rupees.
See Exemption, Schedule II (No. 6).		

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(*See section 5*).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.		
		If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
		Rs. A. P.	Rs. A. P.	Rs. A. P.
11. BILL OF EXCHANGE OR PROMISSORY NOTE, not being a cheque, bond, bank-note or currency-note	(*a*.) When payable on demand and the amount exceeds Rs. 20	One anna.		
	(*b*.) When payable otherwise than on demand, but not more than one year after date or sight.			
	If the amount of the bill or note does not exceed Rs. 200	0 2 0	0 1 0	0 1 0
	If it exceeds 200 and does not exceed 400	0 4 0	0 2 0	0 2 0
	„ 400 600	0 6 0	0 3 0	0 2 0
	„ 600 1,000	0 10 0	0 5 0	0 4 0
	„ 1,000 1,200	0 12 0	0 6 0	0 4 0
	„ 1,200 1,600	1 0 0	0 8 0	0 6 0
	„ 1,600 2,500	1 8 0	0 12 0	0 8 0
	For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000 ...	1 8 0	0 12 0	0 8 0
	For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000 ...	3 0 0	1 8 0	1 0 0
	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000	6 0 0	3 0 0	2 0 0
	(*c*). When payable at more than one year after date or sight	The same duty as a Bond (No. 13) for the amount of such bill or note.		

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.			PROPER STAMP-DUTY.
12. BILL OF LADING]... ... ... *See Exemption, Schedule II (No. 7).*			Four annas. If a Bill of Lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
13. BOND (not otherwise provided for by this Act) ... See *Administration-Bond* (*No. 2*), *Customs-Bond* (*No. 24*), *Indemnity-Bond* (*No. 28*), *Security-Bond* (*No. 14*). *See Exemptions, Schedule II (No. 8).*	When the amount or value secured does not exceed	Rs. 10	Two annas.
	When such amount or value exceeds Rs. 10, but does not exceed ...	50	Four annas.
	When such amount or value exceeds Rs. 50, but does not exceed ...	100	Eight annas.
	and for every Rs. 100 or part thereof in excess of Rs. 100 up to ...	1,000	Eight annas.
	and for every Rs. 500 or part thereof in excess of	1,000	Two rupees eight annas.
14. BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money received by virtue thereof ... ... *See Exemptions, Schedule II (Nos. 8 and 12).*	(*a.*) When the amount secured does not exceed ...	Rs. 1,000	The same duty as a Bond (No. 13).
	(*b.*) In any other case ...		Five rupees.
15. BOTTOMRY-BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage...			The same duty as a Bond (No. 13).
16. CERTIFICATE OF SALE granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer			The same duty as a Conveyance (No. 21) for a consideration equal to the amount of the purchase-money.

BENGAL SECRETARIAT LIBRARY

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.			PROPER STAMP-DUTY.
17. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or to become proprietor of shares, scrip or stock in or of any Company or Association			One [illegible]
18. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer			One rupee.
19. CHEQUE, for an amount exceeding twenty rupees			One anna.
20. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors			Ten rupees.
21. CONVEYANCE, not being a **TRANSFER** mentioned in No. 60 ...	When the amount of the consideration for such conveyance as set forth therein does not exceed	Rs. 50	Eight annas.
	When it exceeds Rs. 50 but does not exceed ...	100	One rupee.
	For every Rs. 100 or part thereof in excess of Rs. 100 up to ...	1,000	One rupee.
	and for every Rs. 500 or part thereof in excess of	1,000	Five rupees.

See Exemptions, Schedule II (Nos. 5 and 17).

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
CO-PARTNERSHIP ...	See *Instrument, No. 32.*	
22. COPY OR EXTRACT, certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees ... ... *See Exemptions, Schedule II (Nos. 9 and 10).*	(*a.*) If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ...	Eight annas.
	(*b.*) In any other case ...	One rupee.
23. COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid ...	(*a.*) If the duty with which the original instrument is chargeable does not exceed one rupee ...	The same duty as is payable on the original.
	(*b.*) In any other case ...	One rupee.
24. CUSTOMS-BOND ...	... ...	The same duty as a Security-Bond (No. 14).
25. DECLARATION OF ANY TRUST of or concerning any property, when made by any writing not being a will ...	... ...	Fifteen rupees.
26. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees ...	... ...	One anna.
DEPOSIT OF TITLE-DEEDS	See *Instrument, No. 29.*	
DISSOLUTION OF PARTNERSHIP ...	See *Instrument, No. 33.*	
DUPLICATE ...	See *Counterpart, No. 23.*	

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
27. **ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT** in exercise of powers conferred on such Court by letters patent ... *See Exemption, Schedule II (No. 11).*	In the case of an Advocate or Vakíl	Five hundred rupees.
	In the case of an Attorney ...	Two hundred and fifty rupees.
EXCHANGE ...	See *Instrument, No. 35.*	
EXTRACT... ...	See *Copy, No. 22.*	
FURTHER CHARGE	See *Instrument, No. 30.*	
GIFT	See *Instrument, No. 36.*	
28. **INDEMNITY-BOND**	... ...	The same duty as a Security-Bond (No. 14).
INSPECTORSHIP-DEED	See *Composition-deed, No. 20.*	
29. **INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT OF A LOAN** made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property ...	(*a.*) When such loan is repayable more than three months, but not more than one year, from the date of such instrument.	The same duty as a Bill of Exchange (No. 11 (*b*)) for the amount secured.
	(*b.*) When such loan is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange (No. 11 (*b*)) for the amount secured.
30. **INSTRUMENT IMPOSING A FURTHER CHARGE ON MORTGAGED PROPERTY** ...	(*a.*) When the original mortgage is one of the description referred to in No. 44, clause (*a*), of this schedule.	The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such instrument.
	(*b.*) When such mortgage is one of the description referred to in No. 44, clause (*b*), of this schedule.	The same duty as a Bond (No. 13) for the amount secured by such instrument.
31. **INSTRUMENT OF APPRENTICESHIP,** including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employ-		

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
ment, except articles of clerkship (No. 9 of this schedule)	Five rupees.
See Exemption, Schedule II (No. 12 (c)).	
32. INSTRUMENT OF CO-PARTNERSHIP	Ten rupees.
33. INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	Five rupees.
34. INSTRUMENT OF DIVORCE, that is to say, any instrument by which any person effects the dissolution of his marriage	One rupee.
35. INSTRUMENT OF EXCHANGE of any property	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property of greater value as set forth in such instrument.
36. INSTRUMENT OF GIFT (OTHER THAN A SETTLEMENT OR WILL)	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property as set forth in such instrument.
37. INSTRUMENT OF PARTITION	The same duty as a Bond (No. 13) for the amount of the value of the property divided as set forth in such instrument.
38. INSTRUMENT (OTHER THAN A WILL) CONFERRING OR PURPORTING TO CONFER AN AUTHORITY TO ADOPT	Ten rupees.
INSURANCE ... See *Policy, No. 49.*	

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(*See section 5*).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
	(*a*) Where by such lease the rent is fixed and no premium is paid or delivered and such lease purports to be for a term—	
	of less than one year ...	The same duty as a Bond (No. 13) for the whole amount payable or deliverable under such lease.
	of not less than one year, but not more than three years ...	The same duty as a Bond (No. 13) for the average annual rent reserved.
	exceeding three years ...	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent reserved.
39. LEASE. See *Agreement to lease* (*No. 4*). See *Exemptions, Schedule II* (*No. 13*).	(*b*) Where by such lease the rent is fixed and no premium is paid or delivered and such lease does not purport to be for any definite term ...	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
	(*c*) Where the lease is granted for a fine or premium, and where no rent is reserved	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease.
	(*d*) Where the lease is granted for a fine or premium in addition to rent reserved	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease, in addition to the duty which would have been pay-

mendment
No. 39 in
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2. In Schedule I, No. 39, of the said Act, after the heading "Lease" in the first column, the words "including an under-lease or sub-lease" shall be added.

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(*See section 5*).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
	able on such lease if no fine or premium had been paid or delivered: Provided that, when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
40. LETTER OF ALLOTMENT OF SHARES in any Company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company	One anna.
41. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn	One anna.
42. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion	Ten rupees.
43. MEMORANDUM OF ASSOCIATION OF A COMPANY	Fifteen rupees.
44. MORTGAGE-DEED not provided for by No. 14, No. 15, No. 29 or No. 55 of this schedule. (*a*) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ... ... See *Exemptions, Schedule II* (*No. 12 and No. 14* (*b*)).	The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such deed.

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(*See section 5*).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
44. MORTGAGE-DEED not provided for by No. 14, No. 15, No. 29 or No. 55 of this schedule—*continued.* See *Exemptions, Schedule II (No. 12 and No. 14 (b))*.	(*b*) When at the time of execution possession is not given or agreed to be given as aforesaid	The same duty as a Bond (No. 13) for the amount secured by such deed.
45. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public ...	... ...	One rupee.
46. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees	... ...	One anna.
47. NOTE OF PROTEST BY THE MASTER OF A SHIP ...	... ...	Eight annas.
PARTITION	See *Instrument, No. 37.*	
PARTNERSHIP ...	See *Instrument, Nos. 32 and 33.*	
48. PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION, or for the extension of the term of the exclusive privilege of making or using or selling such invention in India ...	... ...	One hundred rupees.

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.	
		If drawn singly.	If drawn in duplicate, for each part.
49. POLICY OF INSURANCE	(*a*). In the case of Sea-insurance—	Rs. A. P.	Rs. A. P.
	When the amount insured does not exceed .. Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 4 0	0 2 0
See Exemption, Schedule II (No. 14 (a)).	(*b*). In the case of any other insurance—		
	When the amount insured does not exceed ... Rs. 1,000	0 6 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 6 0	0 3 0
50. POWER-OF-ATTORNEY, not being a proxy chargeable under No. 51.	(*a*). When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a single transaction ...	Eight annas.	
	(*b*). When authorizing one person or more to act in a single transaction other than that mentioned in (*a*)	One rupee.	
	(*c*.) When authorizing not more than five persons to act jointly and severally in more than one transaction or generally ...	Five rupees.	
	(*d*.) When authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally	Ten rupees.	
	(*e*.) In any other case ...	One rupee for each person authorized	

Explanation.—For the purposes of this number more persons than one when belonging to the same firm shall be deemed to be one person.

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(*See section 5*).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
PROMISSORY NOTE	See *Bill of Exchange, No. 11.*	
PROTEST, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note	See *Notarial Act, No. 45.*	
PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such ...	See *Notarial Act, No. 45.*	
51. PROXY empowering any person to vote at any one meeting of—		
(*a.*) Members of a Company whose stock or funds is or are divided into shares and transferable :	... ...	One anna.
(*b.*) Municipal Commissioners :		
(*c.*) Proprietors, Members or Contributors to the funds of any Institution ...		
52. RECEIPT FOR ANY MONEY OR OTHER PROPERTY THE AMOUNT OR VALUE OF WHICH EXCEEDS TWENTY RUPEES See *Exemptions, Schedule II (No. 15).*	... ...	One anna.

SCHEDULE I—*continued.*

STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
53. **RE-CONVEYANCE OF MORTGAGED PROPERTY** ...	(*a.*) If the consideration for which the property was mortgaged does not exceed ... Rs. 1,000	The same duty as a Conveyance (No. 21) for the amount of such consideration as set forth in the re-conveyance.
	(*b.*) In any other case ...	Ten rupees.
54. **RELEASE**, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property ...	(*a.*) If the amount or value of the claim does not exceed ... 1,000	The same duty as a Bond (No. 13) for such amount or value as set forth in the release.
	(*b.*) In any other case ...	Five rupees.
55. **RESPONDENTIA-BOND**, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination		The same duty as a Bond (No. 13).
56. **REVOCATION OF ANY TRUST** of or concerning any property by any instrument other than a Will		Ten rupees.
57. **SETTLEMENT**		The same duty as a Bond (No. 13) for a sum equal to the amount or value of the property settled as set forth in such settlement.
58. **SHIPPING-ORDER** for or relating to the conveyance of goods on board of any vessel		One anna.
SPECIFICATION ...	See *Petition, No. 48.*	

SCHEDULE I—*concluded.*

STAMP-DUTY ON INSTRUMENTS—*concluded.*

(See section 5).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
59. SURRENDER OF LEASE ... ... *See Exemption, Schedule II (No. 16).*	(*a.*) When the duty with which the lease is chargeable does not exceed five rupees	The duty with which such lease is chargeable.
	(*b.*) In any other case ...	Five rupees.
TRANSFER ... *Exemptions, Schedule II (No. 17).*	(*a.*) Of shares in a Company or Association ...	One-quarter of the duty payable on a Conveyance (No. 21).
	(*b.*) Of any interest secured by a Bond, Lease, Mortgage-deed or Policy of Insurance— 1. If the duty on such Bond, Lease, Mortgage-deed or Policy does not exceed five rupees ...	The duty with which such Bond, Lease, Mortgage-deed or Policy of Insurance is chargeable.
	2. In any other case ...	Five rupees.
	(*c.*) Of any property under the Administrator General's Act, 1874, section 31 ...	Ten rupees.
	(*d.*) Of any trust-property from one trustee to another trustee without consideration	Five rupees.
TRUST	See *Declaration, No. 25.* *Revocation, No. 56.*	
VALUATION ...	See *Appraisement, No. 7.*	
WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be ...	... ...	Four annas.

SCHEDULE II.

INSTRUMENTS EXEMPTED FROM STAMP-DUTY.

1. Affidavit or declaration in writing when made—

   (*a*) as a condition of enlistment under the Indian Articles of War;

   (*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or

   (*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.

2. Agreement or memorandum of agreement—

   (*a*) for or relating to the sale of goods or merchandize exclusively, not being a note or memorandum chargeable under No. 46 of schedule I;

   (*b*) for service in British Burma under the Chief Commissioner of that Province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner;

   (*c*) made by raiyats for the cultivation of the poppy for Governmen

   (*d*) made in the form of tenders to the Government of India for relating to any loan;

   (*e*) made regarding the occupancy of land denoted by a survey number, and the payment of revenue therefor, under Bomba Act I of 1865;

   (*f*) made under the European Vagrancy Act, 1874, section 17.

3. Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

4. Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

5. Assignment of copyright by entry made under Act No. XX of 18 section 5.

6. Award under Bombay Act VI of 1873, section 81, or Bombay Act I of 1874, section 18.

7. Bill of lading, when the goods therein described are received at a pl within the limits of any port as defined under the Indian Ports A 1875, and are to be delivered at another place within the limits of same port.

8. Bond when executed by—

   (*a*) the sureties of middlemen (lambardárs or khattadárs) takin advances for the cultivation of the poppy for Government;

   (*b*) headm

SCHEDULE II—*continued.*

INSTRUMENTS EXEMPTED FROM STAMP-DUTY—*continued.*

(*b*) headmen nominated under rules framed in accordance with Bengal Act III of 1876, section 99, for the due performance of their duties under that Act;

(*c*) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Copy of registration of emigrants furnished under section 27 or section 29 of the Indian Emigration Act, 1871.

11. Entry—

(*a*) of an advocate, vakíl or attorney on the roll of any High Court, when he has previously been enrolled in a High Court established by Royal Charter;

(*b*) on the roll of any High Court, as an attorney, of an articled clerk bound as such before this Act comes into force.

12. Instruments—

(*a*) executed by persons taking advances under the Land Improvement Act, 1871, or by their sureties, as security for the repayment of such advances;

(*b*) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof;

(*c*) of apprenticeship executed by a Magistrate under Act XIX of 1850 or by which a person is apprenticed by or at the charge of any public charity.

13. Leases and Counterparts—

(*a*) Leases of fisheries granted under the Burma Fisheries Act, 1875;

(*b*) Leases granted in the case of a cultivator without the payment of any premium, when a definite term is specified not exceeding one year, or when the annual rent reserved does not exceed one hundred rupees;

(*c*) Counterpart of any lease granted to a cultivator.

Schedule II.—In Article 13, clause (*b*), of this schedule before "annual" insert "average".

14. Letter—

(*a*) of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned;

(*b*) of hypothecation accompanying a bill of exchange.

15. Receipt—

SCHEDULE II—*concluded.*

INSTRUMENTS EXEMPTED FROM STAMP-DUTY—*concluded.*

15. Receipt—

(*a*) endorsed on or contained in any instrument duly stamped, or exempted under this schedule, No. 18, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured;

(*b*) for any payment of money without consideration;

(*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inám lands;

(*d*) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity;

(*e*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;

(*f*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity;

(*g*) given by a headman or lambardár for land-revenue or taxes collected by him;

(*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for:

Provided the same be not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of or call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

16. Surrender of lease when such lease is exempted from duty.

17. Transfers by endorsement—

(*a*) of a bill of exchange, cheque or promissory note;

(*b*) of a bill of lading;

(*c*) of a policy of insurance;

(*d*) of mortgages of rates and taxes authorized by any Act for the time being in force in British India;

(*e*) of securities of the Government of India;

(*f*) of a warrant for goods (No. 61 of schedule I).

General Exemption.

18. Any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

BENGAL SECRETARIAT LIBRARY

SCHEDULE III.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright ...	In section five, the words "without being subject to any stamp or duty."
X of 1866 ...	The Indian Companies Act.	In section eleven, the words "shall bear the same stamp as if it were a deed, and."
		In section sixteen, the words "they shall bear the same stamp as if they were contained in a deed."
XVIII of 1869 ...	The General Stamp Act.	The whole.
I of 1871 ...	The Indian Emigration Act.	In sections twenty-seven and twenty-nine, the words "which shall not require a stamp."
IX of 1873 ...	The North-Western Provinces Land-Revenue Act, 1873.	In section one hundred and eighty-three, the words "stamped or."
of 1874 ...	The Administrator General's Act.	In section thirty-one, the words "bearing a stamp of ten rupees and."
X of 1874 ...	The European Vagrancy Act.	In section seventeen, the words "may be on unstamped paper and."
V of 1876 ...	Bombay Municipal Debentures.	In section two, the words "and no such indorsement shall be chargeable with any stamp-duty."

ACT No. II of 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th February 1879).

An Act to make better provision for recording evidence in the Central Provinces.

Preamble. WHEREAS, in order to provide for the recording of evidence in civil suits in the Central Provinces by the Judge in English or in his own language, it is expedient to amend the Central Provinces Laws Act, 1875; It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Central Provinces Laws Act, 1879;"

Commencement. And it shall come into force at once.

Addition to Act XX of 1875. 2. The following sections shall be deemed to have been added to the said Central Provinces Laws Act, 1875, immediately after the Code of Civil Procedure came into force, that is to say :—

Local repeal of sections 184, 185 and 189 of the Code of Civil Procedure. "11. Sections 184, 185 and 189 of the Code of Civil Procedure are hereby repealed.

Sections substituted for sections 182, 190 and 191 of same Code. "12. For sections 182, 190 and 191 of the same Code, the following shall be substituted (namely) :—

Note of evidence to be taken. "'182. A note of the essential points of the evidence of each witness shall be made at the time, and in the course, of oral examination, by the Judge, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed with, and form part of, the record of the case.

"'190. If

"'190. If the Judge be prevented from making note as above required, he shall record the reason f his inability to do so, and shall cause such note to e made in writing from his dictation in open Court, d shall sign the same, and such note shall form t of the record. Judge unable to make note to record reason of his inability.

"'191. When the Judge making a note of the ence, or causing one to be made as above required, or is removed from the Court before the conclu- of the suit, his successor may, if he thinks fit, with such note as if he himself had made it or ed it to be made.'" Power to use note made by Judge dying or removed before conclusion of suit.

ACT No. III OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUN

(*Received the assent of the Governor General on the 8th M 1879*).

An Act to authorize the destruction of Use Records.

Preamble.

WHEREAS it is expedient to provide for the de struction or other disposal of useless record books and papers in Courts and Revenue-offices; I is hereby enacted as follows:—

Short title. Local extent. Commence-ment.

1. This Act may be called "The Destruction Records Act, 1879:" it extends to the whole British India; and it shall come into force at once.

Power to High Court to make rules for disposal of records, &c.

2. The High Court may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of such High Court, or the Courts of civil and criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

So far as regards his own Court, the Court of Small Causes in Rangoon and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall, for the purposes of this section, be deemed to be a High Court.

3. Each of the High Courts of Judicature at Fort William, Madras and Bombay may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of

(*a*) the local Court for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

(*b*) the

(*b*) the Local Administrator General,

as the High Court may consider useless or unworthy of being permanently preserved.

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4. The Chief Controlling Revenue-Authority may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or in the custody of the Revenue Courts and offices as it may consider useless or unworthy of being permanently preserved.

Rules to ha of law

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

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6. All rules and orders heretofore made by a Local Government, a High Court or a Chief Controlling Revenue-Authority for the destruction or other osal of useless records, books and papers belonging r in the custody of any Court or Revenue-office ll be deemed to have had the force of law from the e on which they were made, and all such rules v in force shall continue to have the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained or continued against any person for the disposal, by destruction or otherwise, of any records, books or papers in accordance with any such rules or with any order made by a Local Government, High Court or Chief Controlling Revenue-Authority.

I

. In this Act "Chief Controlling Revenue-Au- ty" means, in the Presidency of Fort St. George the territories respectively under the administra- of the Lieutenant-Governors of Bengal and the th-Western Provinces—the Board of Revenue: the Presidency of Bombay, outside Sind and the its of the town of Bombay—a Revenue Commis- ner: in Sind—the Commissioner: in the Panjáb— the Financial Commissioner; and elsewhere—the Local Government or such officer as the Local Gov ernment may, by notification in the official Gazette

—In t -West issione

appoint

appoint in this behalf by name or in vi
office.

8. Nothing herein contained shall be deemed
authorize the destruction of any document wh
under the provisions of any law for the time bein
force, is to be kept and maintained.

9. The enactments specified in the schedule
to annexed shall be repealed to the extent menti
in the third column.

THE SCHEDULE.

(*See section 9*).

Enactments repealed.

(*a*).—Acts of the Governor General in Council

Number and year.	Subject or short title.	Extent of repeal
XX of 1875 ...	The Central Provinces Laws Act, 1875.	In section eight, clause the last twenty-one w
XVIII of 1876 ...	The Oudh Laws Act, 1876.	In section thirty-n clause (*e*), the last ei een words.

(*b*).—Acts of the Governor of Bombay in Council.

Number and year.	Subject or short title.	Extent of repeal.
VI of 1865 ...	To authorize the destruction of Useless Records in certain Courts of the Bombay Presidency.	The whole.
V of 1869 ...	To authorize the destruction of Useless Records in the Courts of the Province of Sind.	The whole.

(*c*).—Regulation under 33 Vic., c. 3.

Number and year.	Subject or short title.	Extent of repeal.
II of 1877 ...	The Ajmer Laws Regulation, 1877.	In section forty, clause (*c*), the last twenty-one words.

THE INDIAN RAILWAY ACT, 1879.

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ACT No. IV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 13th March, 1879*).

An Act to consolidate and amend the law relating to Railways in India.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Railway Act, 1879:"

Local extent. It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty;

Commencement. And it shall come into force on the first day of July, 1879.

Repeal of Acts. 2. On and from that day, the Acts specified in the first schedule hereto annexed shall be repealed.

All rules made, notifications published and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

Nothing in the Carriers Act, 1865, shall apply to carriers by railway.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context,—

"Railway." "Railway" means a Railway for the public conveyance of passengers or goods:

It

It includes—

(*a*) all land within the fences or other boundary-marks prescribed under section fifty-two;

(*b*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(*c*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a Railway;

(*d*) all vessels and rafts used for the purpose of carrying on the traffic of a Railway.

In section four, "Railway" includes a Railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty-three, thirty-four, forty to forty-six (both inclusive), fifty-two and fifty-three, "Railway" includes a Railway under construction and a Railway not used for the public conveyance of passengers or goods:

"Railway-Administration" means, in the case of a Railway worked by Government or a Native State, the Manager of such Railway, and in the case of a Railway worked by a Company or private individual, such Company or individual: "Railway-Administration."

"Railway-servant" means any person employed by a Railway-Administration, to perform any function in connection with a Railway, "Railway-servant."

and in section twenty-five, last clause, sections twenty-six, twenty-seven, thirty-eight and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

4. It shall be lawful, with the previous sanction of the Governor General in Council, to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby. Right to use locomotives.

CHAPTER II.

CHAPTER II.

DUTIES OF THE RAILWAY-ADMINISTRATION.

Railway when to be opened.

5. No Railway or portion or extension of, or addition to, a Railway shall be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until an officer appointed by the Governor General in Council to inspect such Railway, portion, extension or addition has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

Accidents to be reported.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the Railway of—

(*a*) any accident attended with loss of human life or serious injury to person or property,

(*b*) any accident of a description usually attended with such loss or injury, and

(*c*) any accident of any other description which the Governor General in Council may, from time to time, direct to be notified,

give notice thereof to the Local Government;

and the Station-master nearest to the place at which the accident occurs, or, where there is no Station-master, the officer in charge of the section of the Railway on which the accident occurs, shall, without unnecessary delay, give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurs, or to such other Magistrate and Police-officer as the Local Government from time to time appoints in this behalf.

Returns of accidents.

7. Every Railway-Administration shall make up and deliver to the Governor General in Council a return of accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner,

and

and at such intervals of time, as the Governor General in Council from time to time directs.

General rules for working Railway.

8. Every Railway-Administration shall make general rules for the following purposes (that is to say):

(*a*) for regulating the mode in which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(*b*) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon;

(*c*) for regulating the provision to be made for the accommodation and convenience of passengers;

(*d*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods; and

(*e*) generally for regulating the travelling upon, and the use, working and management of, the Railway;

and may, from time to time, alter any such rules.

Penalty for breach of rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor General in Council.

Notification of rules.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-servants and the public in such manner as the Governor General in Council, from time to time, directs.

Power to cancel rules.

The Governor General in Council may at any time cancel any such rule.

Copy and translation of Act, &c., to be shown at stations.

9. An abstract of this Act, and a copy of the Time-tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor General in Council may direct.

CHAPTER III.

CARRIAGE OF PROPERTY.

Special contract limiting liability.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by Railway by the Indian Contract Act, 1872, sections 151 and 161, in the case of loss, destruction or deterioration of, or damage to, property shall, in so far as it purports to limit such obligation or responsibility, be void unless—

(*a*) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(*b*) is otherwise in a form approved by the Governor General in Council.

No liability for loss of gold, silver, &c., unless value declared and increased charge accepted.

11. When any property mentioned in the second schedule hereto annexed is contained in any parcel or package delivered to a carrier by Railway, the carrier shall not be liable for loss, destruction or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some Railway-servant specially authorized in this behalf.

When any property of which the value and nature have been declared under this section has been lost, destroyed or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

No liability for unbooked luggage.

12. A carrier by Railway shall in no case be answerable for loss, destruction or deterioration of, or damage to, any passenger's luggage, unless a Railway-servant has booked and given a receipt for the same.

13. In

Plaintiffs not required to prove negligence.

13. In any suit against a carrier by Railway for compensation for loss, destruction or deterioration of, or damage to, property delivered to a Railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration or damage was caused.

Lien for money due for carriage, &c., of property.

14. If any person fails to pay on demand any sum due by him to a carrier by Railway for conveyance of any property by Railway, or for the custody of any property, or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property, or, if the same have been removed from the Railway, any other property of such person then on such Railway or thereafter coming into the possession of the Railway-Administration;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice and sale, or, if such person fails to remove from the Railway within a reasonable time any property so detained, the whole of such property;

and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto;

or such carrier may recover any such sum by suit.

Written account of property to be given on demand.

15. The owner or person having the care of any property which has been carried upon any Railway, or is brought into any station or warehouse for the purpose of being carried upon a Railway, shall, on demand by any Railway-servant appointed in this behalf by the Railway-Administration, deliver to him an exact account in writing signed by such owner or person

person of the quantity and description of such property.

Dangerous goods.

16. No passenger shall take with him on a Railway, and no person shall deliver or tender for carriage upon any Railway, any dangerous luggage or goods without giving notice of their nature to a Railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Any Railway-servant may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

CHAPTER IV.

CARRIAGE OF PASSENGERS.

Passengers on payment of fares to be furnished with tickets.

17. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare;

Tickets to be shown and given up on demand.

and every passenger shall, when required, show his ticket to any Railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-servant duly authorized to collect tickets.

Fares and tickets at intermediate stations.

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Preferential right of ticket-holders.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained

obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government, who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets. Proviso.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket. Fares to be prepaid.

20. Any passenger found suffering from an infectious disease in a Railway-carriage or in any place on a Railway may, if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any Railway-servant; Power to remove persons suffering from infectious disease.

any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

CHAPTER V.

Offences and Procedure.

(A).—Offences by the Railway-Administration.

21. Any Railway-Administration opening, in contravention of section five, any Railway, or any portion Penalty for opening railway in con-

or

travention of section 5.

or extension of, or addition to, a Railway, shall forfeit to Government the sum of one thousand rupees for every day during which the same continues open in contravention of that section.

For omitting to report accident.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

For not sending return of accidents or making rules under section 8, or exhibiting copy under section 9.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rules as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall forfeit to Government the sum of fifty rupees for every day during which such failure continues.

(B).—Offences by Railway-servants.

For omitting to give notice of accident.

24. Any Station-master or other person omitting to give notice as required by section six, shall be punished with fine which may extend to fifty rupees.

For drunkenness or breach of duty.

25. Any Railway-servant who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty,

or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

For endangering the safety of persons.

26. If any Railway-servant in the discharge of his duty endangers the safety of any person—

(*a*) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight; or

(*b*) by

(*b*) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five hundred rupees, or with both.

For receiving bribes.

27. Every Railway-servant shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

Amendment of Penal Code, section 161.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a Railway-servant as such.

For compelling passengers to enter carriages already full.

28. Any Railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

(*C*).—*Offences by Persons generally.*

For not giving account of goods or giving false account.

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account,

shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolas) of such property; and such fine shall be in addition to any charge to which such property may be liable.

For taking dangerous goods on Railway or delivering such goods without notice.

30. Whoever, in contravention of section sixteen, takes with him any dangerous goods on a Railway, or delivers or tenders any such goods for the purpose of being carried upon a Railway, shall be punished with fine which may extend to two hundred rupees.

For travelling without ticket or not

31. Any passenger travelling on a Railway without a proper ticket or having such a ticket and not showing

showing or delivering up ticket.

showing or delivering up the same when so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

Every such fare shall, on application by a Railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

For evading payment of fare.

32. Any person who defrauds, or attempts to defraud, any carrier by Railway—

(*a*) by travelling, or attempting to travel, on any Railway without having previously paid his fare ;

(*b*) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(*c*) by using or attempting to use a ticket on any day for which such ticket is not available ;

(*d*) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

For altering ticket.

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid ; and such fare shall be recoverable in manner provided by section thirty-one and shall, when recovered, be paid to the Railway-Administration.

For entering carriage in motion.

33. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage

carriage is in motion, shall be punished with fine which may extend to twenty rupees ;

and any passenger who rides, or attempts to ride, on the steps, or any other part of a carriage, upon any Railway, except on those parts which are intended for the accommodation of passengers, For riding on the steps.

shall be punished with fine which may extend to fifty rupees.

34. Any person who, without the permission of the Railway-Administration, rides or attempts to ride upon any locomotive-engine or tender upon any Railway; or in or upon any vehicle not appropriated to the carriage of passengers, For riding on engine, tender, &c.

shall be punished with fine which may extend to one hundred rupees.

35. Any person who, without the consent of his fellow-passengers, if any, in the same compartment, smokes in or upon any Railway-carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees ; For smoking.

and any person who persists in so smoking (except as aforesaid) after being warned by any Railway-servant to desist may, in addition to incurring the liability above-mentioned, be removed by any Railway-servant from any such carriage, and from the premises of the Railway, and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

36. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway ; For intoxication or nuisance.

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any Railway-carriage,

shall be punished with fine which may extend to fifty rupees ; and may be removed by any Railway-servant from any such carriage, and also from the premises of the Railway, and, where he has paid his

fare

fare and obtained a ticket, shall forfeit such fare and ticket.

For entering carriage or room reserved for females.

37. If any carriage, compartment, room or place be reserved by the Railway-Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment, room or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

For obstructing Railway-servant in his duty.

38. Whoever wilfully obstructs or impedes any Railway-servant in the discharge of his duty, shall be punished with fine which may extend to one hundred rupees.

For entering carriage already full.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

For removing signals or injuring carriage, &c.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes or extinguishes any signal or light upon any Railway, or upon any engine, carriage, wagon or other vehicle upon a Railway,

or who negligently damages any engine, carriage, wagon or other vehicle belonging to a Railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

shall be punished with fine which may extend to one hundred rupees.

41. Any

For trespass.

41. Any person who unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees; and if any person so entering refuses to leave such Railway on being requested to do so by any Railway-servant, or by any other person on behalf of the Railway-Administration, he shall be punished with fine which may extend to fifty rupees, and may be immediately removed from such Railway by such servant or other person as aforesaid.

For refusing to leave on request.

For cattle-trespass within Railway-fences.

42. The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids straying on any Railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle-Trespass Act, 1871.

For wilfully driving cattle on fenced Railway;

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any Railway provided with fences suitable for the exclusion of such animals,

on unfenced Railway.

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

Recovery of fines and payment of compensation.

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle-Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

Amendment of Act I of 1871, ss. 11 and 26.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway. And any Railway-servant may exercise

exercise the powers of seizure provided by the said section eleven.

For opening or not properly shutting gates.

43. Whoever knowing or having reason to believe that any engine or train is approaching along a Railway opens any gate which the Railway-Administration has set up on either side of the Railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing, across the Railway;

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any vehicle, animal or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

For minors obstructing line or throwing stones at train.

44. Whenever any minor under twelve years of age unlawfully—

(*a*) places or throws, or attempts to place or throw, upon or across a Railway any wood, stone or other thing, or

(*b*) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key or other thing belonging to the permanent-way of a Railway, or

(*c*) throws or causes to fall, or attempts to throw or cause to fall, against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do shall

be

be punished with fine which may extend to fifty rupees.

For wilful act or omission endangering persons on Railway.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, shall be punished with transportation (or in the case of an European or American, penal servitude) for a term of not less than seven years, or with imprisonment for a term which may extend to ten years.

For rash or negligent act.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Disobedience of omnibus, &c., drivers to Railway-servants.

47. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

(D).—Arrest of Offenders.

Arrest for offences punishable under this Act of offender whose name is unknown, &c.

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond, or his name and address are unknown and he refuses to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any Railway-servant or Police-officer, or any other person whom such Railway-servant or Police-officer may call to his aid, may, without any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Arrest for offences against certain sections.

49. Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five and forty-six

forty-six may be arrested without any warrant or written authority by any Railway-servant or Police-officer, or by any other person whom such servant or officer may call to his aid;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(E).—Jurisdiction.

Magistrates having jurisdiction.

50. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

Any person committing any offence against this Act or the rules made under it, shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such Railway-stations as the Local Government may direct, so that it may be easily seen and read.

(F).—Saving of other Criminal Laws.

Saving of Prosecutions under other laws.

51. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence.

CHAPTER VI.

MISCELLANEOUS.

Power of Government to make rules

52. The Governor General in Council, or the Local Government with the previous sanction of the Governor

Governor General in Council, may, from time to time, make rules requiring— as to fences, gates and bars.

(*a*) that boundary-marks or fences be provided for any Railway or any part thereof, and for roads constructed in connection therewith;

(*b*) that gates or bars be erected at places where any Railway crosses a road on the level; and

(*c*) that persons be employed to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section, shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

53. The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway. Power to declare Local Government in respect of any Railway.

54. The Governor General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam. Power to extend Act to steam-tramways.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See section 2).

Number and year.	Title.
XVIII of 1854 ..	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ..	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

THE

THE SECOND SCHEDULE.

(See section 11).

(a) Gold or silver, coined or uncoined, manufactured or unmanufactured;
(b) plated articles;
(c) cloths and tissue and lace of which gold or silver forms part;
(d) precious stones, jewellery, trinkets;
(e) watches, clocks or time-pieces of any description;
(f) Government securities;
(g) Government stamps;
(h) bills of exchange, hundís, promissory notes, bank-notes, orders or other securities for payment of money;
(i) maps, writings, title-deeds;
(j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;
(k) glass, china, marble;
(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
(m) shawls;
(n) lace;
(o) opium;
(p) ivory, ebony, sandalwood, sandalwood-oil;
(q) musical and scientific instruments.

ACT No. V OF 1879

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March, 1879).

An Act to amend the Presidency Banks Act, 1876.

Preamble.

WHEREAS it is expedient to amend the Presidency Banks Act, 1876, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called "The Presidency Banks Act, 1879;" and it shall come into force on the first day of May, 1879.

Amendment of Act XI of 1876, section 28.

2. To the first clause of section 28 of the Presidency Banks Act, 1876, the following proviso shall be added, that is to say:

"Provided that no person shall be chosen to be President or Vice-President twice in succession."

Amendment of section 34 of same Act.

3. In the same Act, section 34, before the words "no Khazánchi," the words "without the previous sanction of the Board" shall be inserted.

Amendments of section 36.

4. In the same Act, section 36, clause (*a*), sub-clause (4), after the words "municipal body," the words "or any body of Commissioners for making improvements in any port or of trustees of any port" shall be inserted.

In the same section, the words "in the case of the Bank of Madras" shall be omitted in both the places in which they occur.

In the same section, after clause (*m*), the following clause shall be inserted, that is to say, "(*m m*) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise."

5. In

Amendment of section 37.

5. In section 37 of the same Act, for clause *(d)*, the following shall be substituted, that is to say,

"*(d)* Nor shall they (except upon the security mentioned in section thirty-six, paragraph *a*, Nos. 1 to 5 inclusive)

"discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

"lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed."

Amendment of section 63.

6. In section 63 of the same Act, clause *(a)*, for the words "lent by discount of bills or otherwise to," the words "lent to or for which bills may be discounted for" shall be substituted.

ACT No. VI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March, 1879).

An Act for the preservation of wild elephants.

Preamble. WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Elephants Preservation Act, 1879:"

Local extent. It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg;

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

Commencement. So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April, 1879.

Repeal. 2. The words "kills or catches elephants," in section 25, clause (*i*), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (*j*), of the same Act, shall be repealed in every local area to which this Act extends or is extended.

Killing and capture of wild elephants prohibited. 3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant unless—

(*a*) in defence of himself or some other person;

(*b*) when

(*b*) when such elephant is found injuring houses or cultivation, or upon, or in the immediate vicinity of, any main public road or any railway or canal; or

(*c*) as permitted by a license granted under this Act.

Rights of Government with respect to certain elephants and tusks.

4. Every elephant captured, and the tusks of every elephant killed, in any of the cases mentioned in section three, clauses (*a*) and (*b*), by any person not licensed under this Act, shall be the property of Government.

License to kill and capture wild elephants.

5. The Collector or Deputy Commissioner of any district may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district:

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

Power of Local Government

6. The Local Government may from time to time, subject to the control of the Governor General in Council,

to declare what are main roads and canals,

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

and to make rules as to licenses.

make rules consistent with this Act for regulating

(*a*) the grant and renewal of licenses under this Act,

(*b*) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(*c*) the time during which such licenses shall continue in force, and

(*d*) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

Penalty for contravening section 3.

7. Whoever, in contravention of section three, kills, injures or captures, or attempts to kill, injure or capture,

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capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

License to be produced and shewn on requisition of certain officers.

8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section three, clauses (*a*) and (*b*), may require him to produce and shew a license granted to him under this Act.

Any person who, on such request, wilfully refuses or is unable to produce and shew such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

Limitation of prosecution.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

Recovery of fees.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

ACT No. VII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 9th May, 1879*).

An Act to provide for the temporary appointment in the Panjáb of an Additional Financial Commissioner.

Preamble. WHEREAS it is expedient to provide temporarily for the appointment of an Additional Financial Commissioner to assist the Financial Commissioner of the Panjáb; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Panjáb Additional Financial Commissioner's Act, 1879:"

Commencement. And it shall come into force at once.

Appointment of Additional Financial Commissioner. 2. The Lieutenant-Governor of the Panjáb may, from time to time, with the previous sanction of the Governor General in Council, appoint such person as the said Lieutenant-Governor thinks fit to be an Additional Financial Commissioner.

Every person so appointed shall hold his office during the pleasure of the Governor General in Council:

Provided that no such person shall be so appointed or continue in office after the thirtieth day of September, 1879.

Business transferred by Financial Commissioner to be disposed of by Additional Fipancial Commissioner. 3. Every Additional Financial Commissioner, appointed under section 2, shall hold his sittings at such place in the Panjáb as the said Lieutenant-Governor from time to time directs, and shall dispose of such revenue, judicial and other business, now or hereafter pending before the Financial Commissioner of the Panjáb, under any enactment for the time being in force, as the said Financial Commissioner may, from time

AL FINANCIAL COMMISSIONER'S ACT, VII OF 1879.

	The whole Act is repealed ...	...	...	Act XII of 1891.

time to time, transfer to him for that purpose, and, in the disposal of such business, shall follow the same procedure and exercise the same powers as would be followed and exercised by the said Financial Commissioner in like cases.

The said Financial Commissioner may at any time withdraw and himself dispose of any business transferred to the Additional Financial Commissioner under this section and not disposed of by him.

Power to withdraw cases so transferred.

ACT No VIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to amend the North-Western Provinces Land-Revenue Act, 1873, and the North-Western Provinces Local Rates Act, 1878.

Preamble. WHEREAS it is expedient to amend the North-Western Provinces Land-Revenue Act, 1873; It is hereby enacted as follows:—

Short title. **1.** This Act may be called "The North-Western Provinces Land-Revenue Act, 1879;"

Commencement. and shall come into force at once.

Local extent This section and sections 28 and 29 extend to the whole of the territories for the time being under the administration of the Lieutenant-Governor of the North-Western Provinces.

The whole of this Act extends to those portions of the said territories to which the whole of the said North-Western Provinces Land-Revenue Act, 1873, extends; and every provision of this Act amending any part of the said North-Western Provinces Land-Revenue Act, 1873, extends to all other portions of the said territories to which such part may have been, whether before or after the passing of this Act, extended.

Addition to section 3, clause 1, of Act XIX of 1873. **2.** To section 3, clause (1), of the said North-Western Provinces Land-Revenue Act, 1873, the following shall be added:—

"and (*c*), for such purposes as the Local Government may from time to time determine, any grant of land made heretofore or hereafter under the waste-land rules for the time being in force."

3. In

Amendment of same Act, section 23.

3. In section 23 of the same Act, for the word "villages," the word "maháls" shall be substituted.

New section substituted for section 29 of same Act. Patwáris' fund.

4. For section 29 of the same Act, the following shall be substituted :—

"29. A rate may be imposed by order of the Board on the annual value or on the cultivated area of all maháls, or partly on one and partly on the other, for the purpose of defraying the salaries of patwáris and any charges incurred for the proper supervision, maintenance and correction of patwáris' records.

"The proceeds of such rate shall be credited to a provincial fund, and shall be applied to the said purpose in such manner as the Board, subject to the orders of the Local Government, may from time to time direct.

"The Local Government may from time to time, by rules published in the local official Gazette, declare the circumstances under which a landlord shall be entitled to recover from tenants holding rent-free, or at fixed or beneficial rates, the whole or any specified part of the rate imposed under this section.

"*Explanation.*—Charges incurred in the preparation of village-maps shall be deemed to be charges within the meaning of this section."

New proviso substituted for proviso to section 30 of same Act.

5. For the proviso to section 30 of the same Act, the following shall be substituted :—

"Such rate shall not exceed three per cent. on the annual value of the rated mahál; and the amount to be imposed on each mahál shall be fixed, in temporarily settled districts for the term of settlement, and in permanently settled districts for thirty years, or such shorter period as the Local Government may from time to time direct:

"Provided that the rate or sum hitherto paid (whatever its amount may be) by the proprietors of any mahál on account of the patwáris' salaries or expenses shall, if the Local Government so directs, be deemed to be the rate imposed under this Act."

Amendment of section 44 of same Act.

6. In section 44 of the same Act, for the word "elected," the word "selected" shall be substituted and

and to the same section the words "such representatives shall be called lambardárs" shall be added.

Amendment of section 65 of same Act.

7. In section 65 of the same Act, for clauses (*d*) and (*e*), the following shall be substituted :—

"(*d*) as to any other matters which he may be directed to record under rules framed under section 257.

"The Settlement-officer may, subject to rules to be made from time to time by the Board, with the previous sanction of the Local Government, fix and shall record—

"(*e*) the amounts of instalments of rent and the respective dates for their payment;

"(*f*) the dates for the payment of any amounts payable by inferior to superior proprietors under section 54, clause (1); and

"(*g*) the dates on which profits shall be divisible by lambardárs."

Amendment of section 66 of same Act.

8. In section 66 of the same Act, for the second clause, the following shall be substituted :—

List of cesses to be made.

"A list of all other cesses levied in accordance with village-custom, and generally or specially sanctioned by the Local Government, shall be made by the Settlement-officer. And, save as provided by any other enactment for the time being in force, no cesses not comprised in such list shall be enforced in any Civil or Revenue Court, and no such list shall be altered or added to during the currency of a settlement."

And to the same section, the following shall be added :—

Power of Governor General in Council to declare what shall be deemed to be a cess.

"While any local area is under settlement, the Governor General in Council may, from time to time, in case of doubt, declare what shall be deemed to be a cess within the meaning of this section."

Addition to section 74 of same Act.

9. To section 74 of the same Act, the following shall be added :—

"Provided that the Local Government may empower any Settlement-officer, when any such application

cation made before him is opposed, to refuse, for reasons to be recorded by him in writing, to grant the same."

Amendment of section 95 of same Act.

10. In section 95 of the same Act, for the words "no such changes," the words "no such change or other thing affecting proprietary rights or interests" shall be substituted.

Addition to section 141 of same Act.

11. To section 141 of the same Act, the following shall be added :—

"*Explanation.*—'Owners' in this and the following sections of this chapter include also a lessee, mortgagee or other person in possession of the land referred to."

Addition to section 146 of same Act.

12. To section 146 of the same Act, the following shall be added :—

"*Explanation.*—'Proprietor' in this chapter includes also a farmer and a mortgagee in possession."

Amendment of section 156 of same Act.

13. In section 156 of the same Act, for the word "proprietor," the words "defaulter or his legal representative" shall be substituted.

New section substituted for section 157 of same Act.

14. For section 157 of the same Act, the following shall be substituted :—

Transfer of defaulter's share to co-sharers.

"157. When the arrear is due in respect of a share or pattí of a mahál, the Collector of the district may, with the previous sanction of the Commissioner of the Division, in cases where the annual revenue payable in respect of such share or pattí does not exceed fifty rupees, and in other cases with the previous sanction of the Board, transfer such share or pattí, for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to any or all of the other co-sharers, on condition of their paying such arrear and on such terms as the Commissioner or Board (as the case may be) in each case may think fit.

"The Commissioner shall, without unnecessary delay, report to the Board every transfer sanctioned by him under this section, and the Board may thereupon set aside such transfer or alter the terms of the same, or pass such other order as it thinks fit.

"A transfer

"A transfer under this section shall not affect the joint and several liability of the co-sharers of the mahál in which it is enforced."

Addition to section 165 of same Act.

15. To section 165 of the same Act, the following shall be added:—

"for the remainder of the term of the settlement of the district, or for any period within such term as the Board may fix."

Addition to section 172 of same Act.

16. To section 172 of the same Act, the following shall be added:—

"No officer having any duty to perform in connection with any such sale, and no person employed by or subordinate to such officer, shall, either directly or indirectly, bid for, acquire or attempt to acquire, except on behalf of the Government or the Court of Wards, the property sold or any interest therein."

Addition to section 189 of same Act

17. To section 189 of the same Act, the following shall be added:—

"No protest under this section shall be of any effect unless it is made at the time of payment in writing and signed by the person making the same, or by an agent duly authorized in his behalf."

Amendment of section 193 of same Act.

18. In section 193 of the same Act, for the word "lands," the word "property" shall be substituted.

Amendment of section 194 of same Act.

19. In section 194 of the same Act, for the word "lands," the word "property," and for clause (*e*) the following, shall be substituted:—

"(*e*) persons declared by the Local Government incapable, owing to physical defects and infirmities, to manage their own estates."

New proviso substituted for proviso in section 195 of same Act.

20. In section 195 of the same Act, for the proviso, the following shall be substituted:—

"Provided that, if the person or property of any disqualified proprietor mentioned in section 194, clause (*b*), clause (*c*) or clause (*d*), has been placed under the charge of the Collector, or under the superintendence of the Court of Wards, by any Civil Court, it shall not be released without the concurrence of such Court:

"Provided

"Provided also that the property of a proprietor who has been held disqualified under the same section, clause (*a*), clause (*e*), clause (*f*) or clause (*g*), shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government."

Amendment of section 200 of same Act.

21. In section 200 of the same Act, after the word "may," the following shall be inserted:—

"from time to time determine what sums shall be allowed in respect of the expenses of any person whose property is under its superintendence, and."

Amendment of section 203 of same Act.

22. In section 203 of the same Act, before the words "any part," the words "the whole or" shall be inserted.

New section substituted for section 205 of same Act.

23. For section 205 of the same Act, the following shall be substituted:—

Suits by and against disqualified proprietors in Civil Courts.

"205. All disqualified proprietors whose property is in charge of the Court of Wards, and for whom guardians have been appointed, shall sue and be sued in Civil Courts by and in the name of their guardians:

"Provided that no such suit shall be instituted, defended, compromised or otherwise dealt with by any such guardian without the previous sanction of the Court of Wards.

"Disqualified proprietors, whose property is in charge of the Court of Wards, and for whom guardians have not been appointed, shall sue and be sued in Civil Courts by and in the name of the Collector of the district in which the suit is brought."

New sections to follow section 205 of same Act.

24. After section 205 of the same Act, the following sections shall be inserted:—

Suits and proceedings in Revenue

"205A. A Manager appointed by the Court of Wards may, subject to the control of the Collector, institute, defend, compromise or otherwise deal with suits, applications or other proceedings in Revenue Courts relating to the property entrusted to him.

Repeal.

ovide for the t-lights in the

"205B. Persons whose property is hereby re- superintendence of the Court of Wa

But

competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof.

"And no such property shall be liable to be taken in execution of a decree made in respect of any contract entered into by any such person while his property is under such superintendence."

Amendment of section 212 of same Act.

25. In section 212 of the same Act, after the word "suit," the words "or other proceeding" shall be inserted.

Amendment of section 235 of same Act.

26. In section 235, clause (20), of the same Act, for the word "rent" where it first occurs, the word "limits" shall be substituted.

Addition to section 257 of same Act.

27. In section 257 of the same Act, after clause (*e*), the following clause shall be inserted:—

"(*ee*) regulating the appointment, dismissal and duties of lambardárs."

AND whereas it is also expedient to amend the North-Western Provinces Local Rates Act, 1878; It is hereby further enacted as follows;—

Definition of "tenant" in section 3 of Act III of 1878.

28. In section 3 of the said North-Western Provinces Local Rates Act, for the definition of "tenant," the following shall be substituted:—

"'Tenant' used in reference to any land, means a tenant holding directly from the landlord of such land and also includes an under-proprietor of such land, and a person bound to pay or deliver anything to such landlord in respect of the use and occupation of such land."

Amendment of section 16 of same Act.

29. In section 16 of the same Act, shall be substituted—

(*a*) for the words and figures "twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863," the words and figures "ninety-three of the [illegible] Provinces Rent Act, 1873;" and

[illegible]ords and figures "Act No. X of 1859 [illegible]IV of 1863," the words and figures [illegible]stern Provinces Rent Act, 1873."

ACT No. IX of 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

Preamble. WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

Preliminary.

Short title. 1. This Act may be called "The Burma Coast-lights Act, 1879":

Commencement. It shall come into force on the first day of July, 1879;

Local extent. and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

Repeal. 2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed.

But

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

Customs-Collector.

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port:

"Vessel."

"Vessel" includes anything made for the conveyance by water of human beings or of property:

"Master."

"Master," when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel:

"Voyage."

"Voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

Proviso.

Provided that such rate shall not in any case exceed the rate fixed by section four.

Collection of dues.

7. The Customs-Collector shall collect the coast-light dues,

Voucher to be given.

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Master to report arrival.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Tonnage of vessel chargeable with coast-light dues how ascertained.

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed:—

If registered.

(*a*) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true

true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels, in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay dues or expenses, the Collector may distrain and sell.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, &c., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person

person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

Master to specify on demand voyage on which vessel is bound.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Penalty for evading payment of dues, &c.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

Magistrate to decide disputes.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class. All decisions under this section shall be final.

Prosecutions under other Laws.

Saving of prosecutions under other laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: provided that no person shall be punished twice for the same act or omission.

Statement of Receipts and Expenditure.

Statement of receipts and expenditure to be published.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount

amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

AND whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

Amendment of Indian Ports Act, 1875.

17. For section 77 of the same Act, the following shall be substituted:—

Application of Maulmain and Bassein port-dues.

"77. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma."

SCHEDULE.

(*See section 4*).

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—	(*a*) from or to any port in British Burma; or (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.
2. A voyage to or from any port in British Burma—	from or to any other port in British Burma,
except voyages to or from Maulmain, from or to Tavoy or Mergui, or to or from Tavoy, from or to Mergui.	
3. A voyage to or from Rangoon and any port in British Burma west of the longitude of Rangoon—	from or to any place east of the longitude of Mergui.
4. A voyage to or from any port in British Burma other than Tavoy and Mergui—	from or to any port in the Andaman and Nicobar Islands.

ACT No. X OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to provide for the recovery of certain advances made to Landholders.

Preamble. WHEREAS it is expedient to provide for the recovery of certain advances made in the territories respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer, for certain purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Northern India Takḳávi Act, 1879;"

Commencement. and shall come into force on the first day of July, 1879.

Act IV of 1872, section 52, repealed. 2. On and from that day, the fifty-second section added to the Panjáb Laws Act, 1872, by Act No. XII of 1878 (*An Act for the further amendment of the Panjáb Laws Act, 1872*), shall, except as to advances made before that day, be repealed.

Recovery of certain takḳávi advances. 3. The Local Government may from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.

All such rules shall be published in the local official Gazette.

Every

Every advance made in accordance with such rules, shall, when it becomes due, be recoverable from the person to whom it was made, or from any person who has become surety for the repayment thereof, as if it was an arrear of land-revenue due by the person to whom the advance was made or by his surety.

ACT No. XI of 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st July, 1879).

The Local Authorities Loan Act, 1879.

Preamble. WHEREAS it is expedient to re-enact the Local Public Works Loan Act, 1871, with the amendments hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Local Authorities Loan Act, 1879:"

Local extent. Commencement. It extends to the whole of British India, and shall come into force upon the passing thereof.

Repeal of Act XXIV of 1871. 2. The Local Public Works Loan Act, 1871, is hereby repealed. But all applications, declarations, authorizations, attachments, loans and rules made under the said Act shall be deemed to have been made under this Act.

"Local authority. 3. In this Act, "local authority" means any body corporate, municipal committee, or other persons legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax upon any persons within any local area; and

"Funds" "funds," used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

Loans for works may be granted on security of funds. 4. Any local authority desiring to obtain a loan, on the security of its funds or any portion thereof, for the carrying out of any works which it is legally authorized

authorized to carry out may, in manner provided by the rules made by the Governor General in Council under the power hereinafter conferred, apply to the Local Government for such loan.

Power to Governor General in Council to make rules.

5. The Governor General in Council may from time to time make rules consistent with this Act as to—

(1) the nature of the funds on the security of which loans may be made;

(2) the works for which loans may be made;

(3) the manner of making applications for loans;

(4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;

(5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(6) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained;

(7) the manner of recording and enforcing the conditions on which such loans are to be made;

(8) the manner and time of making loans;

(9) the inspection of any works carried out by means of loans;

(10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;

(11) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;

(12) the attachment of such securities, and the manner of disposing of or collecting them;

(13) the accounts to be kept in respect of loans,

and as to all other matters incidental to carrying this Act into effect.

All

All such rules shall be published in the *Gazette of India*.

Remedy by attachment if loan not repaid.

6. If any loan made under such rules, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings:

Attachment not to defeat prior charges legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Local Government may authorize parties to borrow from private persons under this Act.

7. The Local Government, with the previous sanction of the Governor General in Council, may authorize any local authority which might, under the provisions hereinbefore contained, have borrowed money for any work upon the security of its funds, to borrow money from any other person for such work upon such security; and, if any such loan or the interest thereon is not duly paid, the Local Government shall, upon the application of the lender, attach such funds for his benefit in manner provided by section six.

Power to make rules in regard to such loans.

The Governor General in Council may, in respect of loans to be taken under this section, exercise the power conferred by section five, so far as the same may be applicable to the case of such loans.

Loans not to be effected except under this Act.

8. Except as provided by this Act and the rules made hereunder, no local authority shall for any purpose borrow money upon or otherwise charge its funds;

funds; and any contract otherwise made for that purpose after the passing of this Act shall be void:

Provided that nothing herein contained shall be deemed—

(*a*) to preclude the Municipality of Calcutta, Madras or Bombay, or the Trustees of the Port of Bombay, or the Commissioners for making improvements in the Port of Calcutta, or any like body hereafter created for the Port of Madras, from exercising the borrowing powers conferred on them by any special enactment now or hereafter in force; or

(*b*) to preclude any other local authority from exercising the borrowing power (if any) conferred on it by any such enactment with a view to raising money for any purpose other than the carrying out of works.

Application of Act to loans existing previous to the fifth of September, 1871.

9. The Secretary of State in Council shall be entitled to the remedy mentioned in section six for the recovery of any money lent by him to any local authority before the fifth day of September, 1871, and the interest due on such money; and the Governor General in Council or the Local Government may declare that any person who before the said fifth day of September, 1871, has lent money to any local authority shall be entitled to the said remedy for the recovery of such money, or of the interest due thereon.

ACT No. XII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th July, 1879*).

An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.

Preamble

WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

Repeal of certain portions of Act X of 1877.

1. The following portions of the said Code shall be repealed (namely):—

In section 4, the words and figures "The Panjáb Courts Act, 1865", and "The Panjáb Appeals Act, 1873:"

In section 5, the third sentence:

In section 51, the words "with the permission of the Court,":

In section 52, from and including the words "and when he makes it out of Court" to the end:

In section 61, the words "bill of exchange or other":

In section 64, the words "or as soon thereafter as may be practicable":

In section 80, the words "or to receive the copy of the summons":

In section 97, the words "a duly authorized":

In sections 113 and 177, the word "other":

In section 115, the second paragraph:

In section 131, the words "in whose plaint, written statement or affidavits reference is made to any document,"

ment," and the words "in the presence of such officer as the Court appoints in this behalf,":

In section 199, the words from and including "and in" to the end:

In section 221, the second paragraph:

In section 224, the word "therewith":

In section 230, paragraphs three and four, the words "unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction. And no such subsequent application shall be granted":

In section 246, clause (*e*) and the letters and parentheses (*f*) and (*g*):

In section 259, the words "and keeping the same under attachment until the further order of the Court":

In section 339, paragraph three, the words "to the proper officer of the Court":

In section 353, the words "within three months from its publication," and "within three months from the publication of the schedule":

In section 355, paragraph two, the words "from arrest or imprisonment, as the case may be":

In sections 407 and 408, the words "upon such examination":

In section 638, the figures "261":

In the second schedule, the words and figures "section 648 (so far as relates to arrests)":

In the fourth schedule, No. 152, the words "ON SECURITIES BEING GIVEN", and "on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction".

Amendment of section 2.

2. In section 2, for the definitions of "judgment" and "decree" the following shall be substituted (namely):-

"'decree'

"'decree' means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition: an order specified in section 588 is not within this definition:"

"'order' means the formal expression of any decision of a Civil Court which is not a decree as above defined:"

"'judgment' means the statement given by the Judge of the grounds of a decree or order."

In the same section, to the definition of "signed", the following words shall be added (namely): "it also includes stamped with the name of the person referred to".

Amendment of section 3.

3. In section 3, for the last paragraph, the following shall be substituted (namely):—

"Save as provided by section 99 A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of October, 1877, or any proceedings after decree that may have been commenced and were still pending at that date."

Amendment of section 4.

4. In section 4, for the words "local law" in each of the places where they occur, the words "law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council" shall be substituted; and for the words "landlord and tenant," the words "landholders and their tenants or agents" shall be substituted.

Act No. XVIII of 1878 (*to amend the Code of Civil Procedure, section 4*) is hereby repealed.

Amendment of section 5.

5. In section 5, to the first sentence, the following shall be added (namely): "and to all other Courts (other than the Courts of Small Causes) in the towns of

of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes."

Amendment of section 13.

6. In section 13, for the first paragraph, the following shall be substituted (namely) :—

"13. No Court shall try any suit or issue in which the matter directly and substantially in issue, having been directly and substantially in issue in a former suit in a Court of competent jurisdiction, between the same parties, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally decided by such Court";

and in the same section, *Explanation I*, for the word "confessed," the word "admitted" shall be substituted.

Amendment of section 43

7. In section 43, paragraph one, for the words "arising out of", the words "which the plaintiff is entitled to make in respect of" shall be substituted: in the same section, paragraph two, for the word "for" (in each of the places where it occurs), the words "in respect of" shall be substituted; and in the same section, paragraph three, for the word "claim," the words "cause of action" shall be substituted;

and to the same section the following paragraph shall be added:

"For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action."

Amendment of section 44.

8. To section 44 the following words shall be added (namely): "or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents."

Amendment of section 45.

9. In section 45, for paragraph one, the following shall be substituted (namely): "Subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit":

in

in the same section, paragraph two, for the words "the defendant," the words "any defendant, or at any subsequent stage of the suit, if the parties agree" shall be substituted.

Amendment of section 50.

10. In section 50, for the word "abode" in each of the places where it occurs, the word "residence" shall be substituted.

Amendment of section 51.

11. To section 51 the following proviso shall be added (namely):—

"Provided that, if the plaintiff, by reason of absence or for other good cause, is unable to sign the plaint, it may be signed by any person duly authorized by him in this behalf".

Amendment of sundry sections.

12. In sections 51, 53, 115, 346, 393 and 403, for the word "subscribed" (wherever it occurs), the word "signed" shall be substituted: in sections 115 and 346, for the word "subscribing", the word "signing" shall be substituted; and in section 403, for the word "subscription", the word "signing" shall be substituted.

Amendment of section 58.

13. In section 58, for the word "filed", the word "produced" shall be substituted.

Amendment of section 68.

14. In section 68, for the word "cognizable", the word "heard" shall be substituted.

Amendment of sections 93, 95 and 397.

15. In section 93, after the word "levied", and in section 95, after the word "paid", and in section 397, after the word "be", the words "within a time to be fixed by the Court" shall be inserted.

Addition to section 99.

16. After section 99, the following shall be inserted (namely):—

Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.

"99 A. If, after a summons has, whether before or after the first day of October, 1877, been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

"In

"In such case the plaintiff may (subject to the law of limitation) bring a fresh suit".

Amendment of section 108.

17. In section 108, paragraph one, the words and figures "under section 100" shall be omitted; and in the same section, paragraph two, for the words "it be proved to the satisfaction of the Court that the defendant", the words "he satisfies the Court that the summons was not duly served, or that he" shall be substituted.

Amendment of section 131.

18. In section 131, paragraph one, for the word "Every", the word "Any" shall be substituted, and for the words "such document", the words "any specified document" shall be substituted.

Amendment of section 136.

19. In section 136, after the word "discovery" (in each of the places in which it occurs), the word "production" shall be inserted.

Amendment of section 139.

20. In section 139, for the words and figures "the production of which has been called for under section 138 and which has not been produced," the words and figures "which should have been, but has not been, produced in accordance with the requirements of section 138" shall be substituted.

Amendment of section 207.

21. In section 207, for the words "or numbers" to the end, the following words shall be substituted (namely): "or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers."

Amendment of sections 211 and 212.

22. In section 211, for the words "land or other", the words "the recovery of possession of immoveable" shall be substituted: to the same section the words "together with interest on such profits" shall be added; and in section 212, before the word "immoveable," the words "the recovery of possession of" shall be inserted.

Addition to section 215.

23. After section 215, the following section shall be inserted (namely):—

Suit for account between principal and agent.

"215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money

money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit."

Amendment of section 220.

24. To section 220 the following words shall be added (namely): "Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money."

Amendment of section 223.

25. In section 223, clause (*c*), for the words "district within which", the words "local limits of the jurisdiction of" shall be substituted; and in the penultimate paragraph of the same section, for the words "local Court of Small Causes", the words "Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be," shall be substituted.

Amendment of section 229.

26. In section 229, for the words "Native Prince or State in India," the words "Foreign Prince or State," shall be substituted.

Amendment of section 230.

27. In section 230, clause (*b*), for the words "the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment", the following words shall be substituted (namely): "any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property".

Amendment of section 232.

28. In the second proviso to section 232, after the word "decree", the words "for money" shall be inserted.

Amendment of section 235.

29. In section 235, for the words "in manner hereinbefore provided for the verification of plaints", the following words shall be substituted (namely): "by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case".

Amendment of sections 236 and 237.

30. In sections 236 and 237, for the words "If the application be", the words "Whenever an application is made" shall be substituted.

Amendment of section 244.

31. In section 244, clause (*c*), after the word "execution", the words "discharge or satisfaction" shall be inserted.

32. In

Amendment of section 245.

32. In section 245, for the first sentence, the following shall be substituted (namely): "The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected."

Amendment of section 246.

33. In section 246, for *Explanation I*, the following shall be substituted (namely):—

"*Explanation I.*—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court."

In *Explanation II*, after the words "assignor as", the words "in respect of judgment-debts due" shall be inserted.

Amendment of section 252.

34. In section 252, for the words "If no such property can be found, and the judgment-debtor", the words "If no such property remains in the possession of the judgment-debtor, and he" shall be substituted.

Addition to section 257.

35. After section 257, the following shall be inserted:—

Agreement to give time to judgment-debtor.

"257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement for satisfaction of judgment-debt.

"Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree, shall be void unless it is made with the like sanction.

"Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt; and the surplus, if any, shall be recoverable by the judgment-debtor."

36. For

36. For section 258, the following shall be substituted :— Amendment of section 258

"258. If any money payable under a decree is paid out of court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree. Payment to decree-holder.

"The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

"No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid."

37. For the second paragraph of section 259, the following shall be substituted :— Amendment of section 259.

"When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation, as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist."

38. In

Amendment of section 260.

38. In section 260, in the first paragraph, after the words "the performance of", the words "or abstention from" shall be inserted; and for the second paragraph, the following paragraphs shall be substituted (namely):—

"When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist."

Amendment of section 264.

39. In section 264, after the words "the same", the words "and not bound by the decree to relinquish such occupancy" shall be inserted.

Amendment of section 265.

40. To section 265 the following words shall be added (namely): "and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates".

Amendment of section 268.

41. For the last paragraph of section 268, the following shall be substituted (namely):—

"In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

"A copy of every such order shall be fixed up in a conspicuous part of the court-house and shall be served on the officer so required.

"Every such officer may from time to time pay into court any portion so withheld, and such payment shall discharge the Government or the Railway Company,

pany, as the case may be, as effectually as payment to the judgment-debtor."

Amendment of section 271.

42. For the first paragraph of section 271, the following shall be substituted:—

Seizure of property in building.

"271. No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be."

Amendment of sections 289 and 290.

43. To section 289, paragraph one, the following words shall be added (namely): "and a copy thereof shall be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office"; and in section 290, for the words "notification has been affixed", the words "copy of the proclamation has been fixed up" shall be substituted.

Amendment of section 291.

44. In section 291, for the first eight words, the following shall be substituted (namely): "The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale"; and in the same section, after the proviso, the following sentence shall be inserted (namely): "Whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it."

Amendment of section 294.

45. To section 294 the following paragraph shall be added (namely):—

"When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder."

46. In

Amendment of section 295.

46. In section 295, first proviso, after the words "shall not", the words "as such" shall be inserted;

and after the second proviso, the following shall be inserted:—

Third proviso to section 295.

"Provided also that, when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale;

secondly, in discharging the interest and principal-money due on the incumbrance;

thirdly, in discharging the interest and principal-moneys due on subsequent incumbrances (if any); and

fourthly, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof."

Amendment of section 305.

47. In section 305, paragraph two, after the word "therein," the words and figures "and notwithstanding anything contained in section 276" shall be inserted; and for the last paragraph, the following shall be substituted (namely):—

"Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court."

Amendment of section 314.

48. In section 314, after the word "property", the words "in execution of a decree" shall be inserted.

Amendment of section 316.

49. For section 316, the following shall be substituted (namely):—

Certificate to purchaser of immoveable property.

"316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall

vest

vest in the purchaser from the date of such certificate and not before: provided that the decree under which the sale took place was still subsisting at that date."

Amendment of sections 320 to 325.

50. In section 320, paragraph two, after the word "also", the words "notwithstanding anything hereinbefore contained," shall be inserted; and for sections 321 to 325, both inclusive, the following shall be substituted (namely):—

Power of Collector when execution of decree is so transferred.

"321. When the execution of a decree has been so transferred, the Collector may—

(*a*) proceed as the Court would proceed under section 305; or

(*b*) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(*c*) sell the property ordered to be sold or so much thereof as may be necessary."

Procedure of Collector when execution of decree so transferred.

"322. When the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector, if, after such enquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided."

Notice to be given to decree-holders and to persons having claims on the property.

"322A. In the case mentioned in section 322, the Collector shall publish a notice calling upon—

(*a*) every person holding a decree for money against the judgment-debtor capable of execution by sale of his immoveable property, and which such decree-holder desires to have so executed, and every holder of a decree for money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder;

(*b*) every

(*b*) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

"Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise."

Amount of money-decrees to be ascertained, and immoveable property available for their satisfaction.

"322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may from time to time adjourn such hearing and enquiry.

"If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

"If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the final

final decision shall be communicated to the Collector. The Collector shall then draw up a statement as above provided in accordance with such decision."

When District Court may issue notices and hold inquiry.

"322C. The Collector may, instead of himself issuing the notices and holding the enquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector."

Effect of decision of Court as to dispute arising under section 322B or 322C.

"322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the force of, and be appealable as, a decree."

Scheme for liquidation of money-decrees.

"323. Whenever the amount to be recovered and the property available have been determined as provided in section 322B or 322C, the Collector may—

(1) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property; or if it appears that the amount with interest (if any) in accordance with the decree, and when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale,

(2) raise such amount and interest (notwithstanding any order under section 304),

(*a*) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property; or

(*b*) by mortgaging the whole or any part of such property; or

(*c*) by selling part of such property; or

(*d*) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(*e*) partly

(*e*) partly by one of such modes, and partly by another or others of such modes.

"(3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

"(4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable, or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

"In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may from time to time be made in this behalf by the Chief Controlling Revenue-Authority."

Recovery of balance, if any, after letting or management.

"324. If, on the expiration of the letting or management under section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly."

"324A. The

BENGAL SECRETARIAT

"324A. The Collector shall from time to time render to the Court which made the original order under section 304 an account of all monies which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this chapter, and shall hold the balance at the disposal of the Court. Collector to render accounts to the Civil Court.

"Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and (if the Collector so directs) the expenses of witnesses summoned by him.

"Such balance shall be applied by the Court as follows :— Application of balance.

firstly, in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and

secondly, where the Collector has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property or otherwise as the Court may under section 295 direct; or

thirdly, where the Collector has proceeded under section 322, in keeping down the interest on incumbrances on the property, and (when the judgment-debtor has no other sufficient means of subsistence) in providing for his subsistence to such amount as the Court thinks fit; and in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered;

and no other holder of a decree for money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied;

and

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs."

Sales how to be conducted.

"325. When the Collector sells any property under this chapter, he shall put it up to public auction, in one or more lots as he thinks fit, and may—

(*a*) fix a reasonable reserved price for each lot;

(*b*) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;

(*c*) buy-in the property offered for sale, and resell the same by public auction or private contract, as he thinks fit."

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.

"325A. So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

"During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

"The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived."

Provision where property is in several districts.

"325B. When the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall from

from time to time be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct."

"325C. In exercising the powers conferred on him by sections 322 to 325 (both inclusive), the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents." Powers of Collector to compel attendance of parties and witnesses and production of documents.

51. In section 326, for the last sentence, the following shall be substituted (namely):— Amendment of section 326.

"In such case the provisions of sections 320, paragraph two, to 325C (both inclusive) shall apply, as far as they are applicable."

52. In section 331, paragraph two, for the words and figures "the Specific Relief Act, 1877, section 9," the word and figure "chapter V" shall be substituted; and to the same section the following paragraph shall be added (namely): Amendment of section 331.

"Every such order shall have the same force as a decree, and shall be subject to the same conditions as to appeal or otherwise."

53. In section 332, first paragraph, for the word "defendant", the word "judgment-debtor" shall be substituted; and for the other paragraphs the following shall be substituted (namely): Amendment of section 332.

"If after examining the applicant it appears to the Court that there is probable cause for making the application, the Court shall proceed to investigate the matter in dispute; and if it finds that the ground mentioned in the first paragraph of this section exists, it shall make an order that the applicant recover possession of the property, and if it does not find as aforesaid, it shall dismiss the application.

"In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

"The party against whom an order is passed under this section may institute a suit to establish the right which he claims to the present possession of the property;

property; but, subject to the result of such suit, if any, the order shall be final."

Amendment of section 333.

54. For section 333, the following shall be substituted (namely):—

Transfer of property by judgment-debtor after institution of suit.

"333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made."

Amendment of section 335.

55. In section 335, for the first paragraph, the following shall be substituted (namely):—

Obstruction by claimant other than judgment-debtor.

"335. If the purchaser of any such property is resisted or obstructed by any person, other than the judgment-debtor claiming in good faith a right to the present possession thereof, or if, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit";

and in the second paragraph of the same section, for the word "conclusive", the word "final" shall be substituted.

Amendment of section 336.

56. In section 336, for the first proviso, the following shall be substituted:—

"Provided that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open:

"But when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found: provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest."

57. In

57. In section 339, paragraph four, after the word "made", the words "to the proper officer of the Court" shall be inserted; and to the same paragraph the following words shall be added (namely): "and the subsequent payments (if any) shall be made to the officer in charge of the jail." Amendment of section 339

58. In section 341, for clauses (*a*), (*b*), (*c*), (*d*) and (*e*) and the proviso, the following shall be substituted (namely):— Amendment of section 341.

"(*a*) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail; or

"(*b*) on the decree being otherwise fully satisfied; or

"(*c*) at the request of the person on whose application he has been imprisoned; or

"(*d*) on such person omitting to pay the allowance as hereinbefore directed; or

"(*e*) if the judgment-debtor be declared an insolvent, as hereinafter provided; or

"(*f*) when the term of his imprisonment, as limited by section 342, is fulfilled:

"Provided that, in the second, third and fifth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court."

59. For section 344, the following shall be substituted:— Amendment of sections 344, 345, 347, 349, 350, 351, 356, 357, 358, 359 and 360.

"344. Any judgment-debtor arrested or imprisoned in execution of a decree for money, or against whose property an order of attachment has been made in execution of such a decree, may apply in writing to be declared an insolvent. Power to apply for declaration of insolvency.

"Any holder of a decree for money may apply in writing that the judgment-debtor may be declared an insolvent.

"Every such application shall be made to the District Court within the local limits of whose jurisdiction the judgment-debtor resides or is in custody."

In

In section 345, for the first line and clause (*a*), the following shall be substituted namely:—

Contents of application.

"345. The application, when made by the judgment-debtor, shall set forth—

"(*a*) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody."

And to the same section the following paragraph shall be added:—

"The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody."

In section 347, for the first paragraph, the following shall be inserted (namely):—

Service of copy of application and notice.

"347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in court and served at the applicant's expense—

"where the applicant is the judgment-debtor—on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application:

"where the applicant is the decree-holder—on the judgment-debtor or his pleader."

To section 349 the following words shall be added (namely): "or release him on his furnishing sufficient security that he will appear when called upon."

In sections 349, 350 and 351, for the word "applicant" wherever it occurs, the word "judgment-debtor" shall be substituted.

In section 351, clause (*b*), after the word "imprisoned,"

prisoned," the words "or the order of attachment was made," shall be inserted.

In section 356, for clause (*d*), the following clauses shall be substituted :—

"(*d*) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property :

"(*e*) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference."

And to the same section the following shall be added (namely) :—

"Provided that, in any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but after he has sold the other property of the insolvent, the Court shall ascertain (*a*) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (*b*) the immoveable property of the insolvent remaining unsold, and (*c*) the incumbrances, if any, existing thereon, and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise."

In section 357, for the figures "355", the figures and word "351 or 355" shall be substituted;

and for the words "decrees against him held by the scheduled creditors are fully satisfied or become capable of being executed", the following shall be substituted (namely) : "debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355."

For

For section 358 the following shall be substituted :—

Declaration that insolvent is discharged from liability.

"358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall, declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts."

In section 359, after the words "sentence him", the words "by order in writing" shall be inserted.

To section 360 the following paragraph shall be added (namely) :—

"Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma."

Amendment of sections 361, 362, 363, 365 and 368.

60. In sections 361, 362, 363, 365 and 368, for the words "cause of action" wherever they occur, the words "right to sue" shall be substituted ; and to section 368 the following clause shall be added (namely) :

"When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate."

Amendment of sections 364 and 366.

61. In section 364, paragraph one, and section 366, paragraph one, after the word "If", the words "within the time limited by law" shall be inserted ; and in the latter section, paragraph one, before the word "award", the words "shall, on the application of the defendant," shall be inserted.

Amendment of section 371.

62. In section 371, paragraph two, after the word "deceased", the word "or" shall be inserted.

Amendment of section 373.

63. In section 373, paragraph one, for the words "for the part", the words "in respect of the part" shall be substituted ; and to paragraph two, the words "or in respect of the same part" shall be added.

Amendment

64. In section 375, after the word "adjusted", the words

words "wholly or in part" shall be inserted: after the words "respect to", the words "the whole or any part of" shall be inserted; and to the same section shall be added the words "so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction." Amendment of section 375.

65. In section 377, for the first seven words, the following shall be substituted (namely): "Notice in writing of the deposit shall be given through the Court". Amendment of section 377.

66. In sections 384, 477 and 483, after the word "affidavit", the words "or otherwise" shall be inserted. Amendment of sections 384, 477 and 483.

67. In section 386, for the second paragraph and the two provisoes, the following shall be substituted (namely): Amendment of section 386.

"Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint."

68. In section 406, for the word "shall", the words "may, if he thinks fit," shall be substituted. Amendment of section 406

69. In section 412, after the word "dispaupered," the words and figures "or if the suit is dismissed under section 97 or 98," shall be inserted. Amendment of section 412.

70. In section 413, for the word "Refusal", the words and figures "An order of refusal made under section 409" shall be substituted. Amendment of section 413.

71. In section 424, after the words "against a public officer", the words "in respect of an act purporting to be done by him in his official capacity" shall be inserted; and in sections 428 and 429, after the words "public officer", the words "in respect of such act as aforesaid" shall be inserted. Amendment of sections 424, 428 and 429

72. In section 437, for the first sentence, the following shall be substituted (namely): Amendment of section 437.

"In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator

administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit."

Amendment of section 456.

73. In section 456, for the words "in the name of the minor", the words "in the name and on behalf of the minor or by the plaintiff" shall be substituted; and to the same section the following paragraph shall be added (namely):

"Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: provided that he has no interest adverse to that of the minor."

Amendment of section 469.

74. In section 469, after the word "arrest" and after the word "warrant" (in each of the places where it occurs), the words "or other process" shall be inserted; and in the second paragraph, after the words "signature, and", the words "in the case of a warrant of arrest" shall be inserted.

Amendment of section 473.

75. To section 473 the words "and shall adjudicate on such claim" shall be added.

Amendment of section 478.

76. In the last paragraph of section 478, for the words "an order for bringing the defendant", the words "a warrant to arrest the defendant and bring him" shall be substituted.

Amendment of section 481.

77. To section 481 the following words shall be added (namely): "provided that no person shall be detained in prison under this section after he has complied with such order."

Amendment of section 483.

78. In section 483, after the words "portion of his property", the words "within the jurisdiction of the Court" shall be inserted.

Amendment of section 484.

79. In section 484, after the word "suit," the words "or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him" shall be inserted.

Amendment of section 497.

80. In section 497, clause one, for the words "the injunction", the words "an injunction which it has granted" shall be substituted.

Amendment of section 523.

81. In section 523, paragraph three, for the words "any of", the word "all" shall be substituted.

82. In

Amendment of section 539.

82. In the last clause of section 539, for the words "(where there is no Advocate General) be exercised by the Government Advocate or (where there is no Government Advocate)", the following words shall be substituted (namely): "outside the Presidency-towns be exercised also by the Collector or".

Amendment of section 544.

83. In section 544, for the words "decree, and", the words "decree, and thereupon" shall be substituted.

Amendment of section 555.

84. For section 555, the following shall be substituted (namely):—

Right to begin.

"555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply."

Amendment of section 560.

85. In section 560, for the words "it be proved that the respondent", the words "he satisfies the Court that the notice was not duly served, or that he" shall be substituted.

Amendment of section 561.

86. In section 561, for the words "given to the appellant or his pleader seven days' notice of such objection", the words "filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal" shall be substituted.

Amendment of section 566.

87. In section 566, paragraph two, for the word "issue," the word "issues," shall be substituted.

Amendment of section 582.

88. For the first paragraph of section 582, the following shall be substituted (namely):—

Appellate Courts to have same powers as Courts of original jurisdiction.

"582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under chapter V; and in sections 363 and 365, the word 'plaintiff' shall be held to include an appellant."

Amendment of section 584.

89. In section 584, clause (*c*), after the word "may", the word "possibly" shall be inserted.

90. In

Amendment of section 588.

90. In section 588, for clauses (*a*) to (*w*), the following shall be substituted (namely) :—

" (1) orders under section 20, staying proceedings in a suit;

" (2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant;

" (3) orders under section 36 or section 66, directing that a party shall appear in person;

" (4) orders under section 44, adding a cause of action;

" (5) orders under section 47, excluding a cause of action;

" (6) orders returning plaints for amendment or to be presented to the proper Court;

" (7) orders under section 111, setting-off, or refusing to set-off, one debt against another;

" (8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit;

" (9) orders rejecting applications under section 108 for an order to set aside a decree *ex parte;*

" (10) orders under sections 113, 120 and 177;

" (11) orders under section 116 or section 245 rejecting, or returning for amendment, written statements or applications for execution of decrees;

" (12) orders under sections 143 and 145, directing anything to be impounded;

" (13) orders under section 162 for the attachment and sale of moveable property;

" (14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property;

" (15) orders under section 261, as to objections to draft-conveyances or draft-endorsements;

" (16) orders under section 294, the first paragraph of section 312, or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property;

" (17) orders

"(17) orders in insolvency-matters, under section 351, 352, 353 or 357;

"(18) orders under section 366, paragraph two, section 367 or 368;

"(19) orders rejecting applications under section 370 for dismissal of a suit;

"(20) orders under section 371 refusing to set aside the abatement or dismissal of a suit;

"(21) orders disallowing objections, under section 372;

"(22) orders under section 454, 455 or 458, directing a next friend or guardian for the suit to pay costs;

"(23) orders in interpleader-suits under section 473, clause (*a*), (*b*) or (*d*), section 475 or section 476;

"(24) orders under section 479, 480, 485, 492, 493, 496, 497, 502 or 503;

"(25) orders under section 514, superseding an arbitration;

"(26) orders under section 518, modifying an award;

"(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

"(28) orders under section 562, remanding a case;

"(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree."

Amendment of section 589.

91. For the first paragraph of section 589, the following shall be substituted:—

What Courts to hear appeals.

"589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court."

Amendment of section 622.

92. In section 622, after the words "so vested," the words "or to have acted in the exercise of its jurisdiction illegally or with material irregularity" shall be inserted.

Amendment of section 638.

93. In section 638, for the figures and word "16 and 17," the figures and word "16, 17 and 19," shall be

be substituted; and in the last paragraph, after the word "any", the words "Judge of a" shall be inserted, and the word "its" shall be omitted.

Amendment of section 642.

94. In section 642, for the second paragraph, the following shall be substituted (namely):—

"And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtárs, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under this Code while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal."

Amendment of section 648.

95. For section 648, the following shall be substituted (namely):—

Procedure when person to be arrested or property to be attached is outside the district.

"648. Where any Court desires that any person shall be arrested or any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

"The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

"and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under chapter XXXIV) for satisfying any decree that may be passed against

against him by such Court, in either of which cases the Court making the arrest shall release him."

Amendment of section 649.

96. To section 649 the following paragraph shall be added (namely):—

"In the same chapter, the expression 'Court which passed a decree,' or words to that effect, shall, unless there be something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit."

Addition to section 650.

97. After section 650, the following shall be inserted (namely):—

Service of foreign summonses.

"650A. Summonses issued by any Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts."

Amendment of section 652.

98. In section 652, after the words "connected with", the words "its own procedure or" shall be inserted.

Amendment of schedule I.

99. In the first schedule, column third, opposite "XI of 1865," for the figures and word "11, paragraph 2," the figures and words "11, the last nineteen words of section 13, section 19" shall be substituted; and opposite "V of 1866", after the word "inclusive)" the words "and the schedule" shall be inserted.

Amendment of schedule II.

100. In the second schedule—

for the figures "230", the figures "223" shall be substituted:

before

before the word and figures "Chapter XXI", the words and figures "Chapter XX, section 360—Power to invest certain Courts with insolvency-jurisdiction" shall be inserted:

after the words and figures "Chapter XXXIV.—Of arrest and attachment before judgment", the words and figures "except as regards immoveable property.

"Chapter XXXVI—Appointment of receivers" shall be inserted: and

for the figures "522", the figures "526" shall be substituted.

Amendment of schedule IV.

101. In the fourth schedule, to the note to form No. 145 the following words shall be added (namely): "and as fairly and accurately as possible the other particulars required by section 287 to be specified"; in form No. 149, for the word "thirty", the word "sixty" shall be substituted; and in form No. 172, for the word "seven" in each of the places where it occurs, the word "ten" shall be substituted.

Pending appeals.

102. Every appeal now pending which would have lain if this Act had been in force on the date of its institution shall be heard and determined as if the Act had been in force on such date; and every order heretofore passed purporting to transfer a case to a Collector under section 320, and every notification heretofore published purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

Orders and notifications under sections 320 and 360.

Interpretation-clause.

103. In the preceding sections of this Act, the words "section" and "schedule" respectively mean section of, and schedule annexed to, the said Code.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing; It is hereby further enacted as follows:—

Amendment of Act III of 1877, section 35.

104. In section 35 of the same Act, after the words "person appears", the words "to the registering officer" shall be inserted; and after the words "refuse to register the document", the words "as to the

the person so denying, appearing or dead" shall be inserted.

105. In section 51 of the same Act, for the figures "87", the figures "89" shall be substituted. Amendment of section 51.

106. In section 83 of the same Act, for the words "Subordinate Magistrate of the first", the words "Magistrate of the second" shall be substituted. Amendment of section 83.

107. In section 89 of the same Act, for the words "the certificate", the words "the copy" shall be substituted; and to the same section the following paragraph shall be added (namely) :— Amendment of section 89.

"Every Court granting a certificate under section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner hereinafter appearing; It is hereby further enacted as follows:—

108. In the second schedule to the said Indian Limitation Act 1877— Amendment of Act XV of 1877, schedule II.

for No. 161, the following shall be substituted (namely) :—

"161.—For the issue of a notice under section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.	Twenty days.	When the payment or adjustment is made."

to No. 166, column one, the following words shall be added (namely) : "or on the ground that the decree-holder has purchased without the permission of the Court":

to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiff's," the words "or appellant's" shall be inserted;

after

after No. 171, the following shall be inserted (namely):—

"171A.—Under section 366 of the same Code, by the defendant.	Sixty days ...	The date of the plaintiff's death.
"171B.—Under section 368 of the same Code, to have the representative of a deceased defendant made a defendant.	Ditto ...	The date of the defendant's death.
"171C.—Under section 371 of the same Code, for an order to set aside an order for abatement or dismissal.	Ditto ...	The date of the order for abatement or dismissal."

and in No. 179, column three, paragraph 6, for the words "specified date) the date so specified," the words "certain date) such date" shall be substituted.

THE OUDH CIVIL COURTS ACT, 1879.

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SCHEDULE—Acts repealed.

ACT No. XIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th July, 1879).

An Act to amend the law relating to Civil Courts in Oudh.

Preamble. WHEREAS it is expedient to amend the law relating to Civil Courts in Oudh; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title 1. This Act may be called "The Oudh Civil Courts Act, 1879":

Local extent It extends to all the territories for the time being administered by the Chief Commissioner of Oudh;

Commencement and it shall come into force on the first day of August, 1879.

Repeal of enactments 2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

"District" defined 3. In this Act, "district" means the area comprised in the local limits of the jurisdiction of the District Judge.

CHAPTER II.

CONSTITUTION OF COURTS.

Grades of Courts 4. Besides the Courts established under any other enactment for the time being in force, there shall be four grades of Civil Courts in Oudh (namely):—

(1) the Court of the Munsif;

(2) the Court of the Subordinate Judge;

(3) the Court of the District Judge;

(4) the Court of the Judicial Commissioner.

5. The

Number of Judges.

5. The number of District Judges, Subordinate Judges and Munsifs to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Appointment of officers under Act.

6. The Judicial Commissioner shall be appointed by the Local Government, with the previous sanction of the Governor General in Council.

The District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government:

Provided that the Judicial Commissioner holding office under the Oudh Civil Courts Act, 1871, at the time this Act comes into force, shall be deemed to have been appointed under this Act.

Additional Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the Judicial Commissioner, and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a Judge under chapter III of this Act that the District Judge may, with the sanction of the Judicial Commissioner, assign to them; and in the performance of such duties they shall exercise the same powers as the District Judge.

Temporary charge of office of District Judge.

8. In the event of the death of a District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station at which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the Subordinate Judge holding his court at the same place, shall, without relinquishing his ordinary duties, assume charge of the Judge's office at such station;

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions;

and shall continue in charge of the office until it is resumed by the District Judge, or assumed by an officer duly appointed thereto.

9. In

Transfer of proceedings on death, &c., of Subordinate Judge.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave, when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

Principal Civil Court of original jurisdiction.

10. The Court of the District Judge shall be deemed to be the principal Civil Court of original jurisdiction in the district over which his jurisdiction extends.

Control over Civil Courts.

The control over all the Civil Courts in such district is invested in the said District Judge, but subject to the general control of the Judicial Commissioner.

Appointment of ministerial officers of Courts.

11. The Judicial Commissioner and the District Judges, Subordinate Judges and Munsifs shall appoint the ministerial officers of their respective Courts:

Provided that, in the case of the Subordinate Judges and Munsifs, such appointments shall require the sanction of the District Judge to whose control they are respectively subject.

Transfer of ministerial officers.

12. The Judicial Commissioner or any District Judge may transfer any ministerial officer from any Court under his control to any other Court under his control.

Seals of Courts.

13. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Place of sitting of Courts.

14. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Power to confer Munsif's jurisdiction.

15. The Local Government may from time to time, by notification in the official Gazette, invest such persons as it thinks fit with the powers of a Munsif, subject to such restrictions in respect of the value of the subject-matter of the suit as may be deemed proper, and withdraw such jurisdiction.

All

All persons so invested shall be called "Honorary Assistant Commissioners."

All Honorary Assistant Commissioners invested with powers under the Oudh Laws Act, 1876, section forty-three, and exercising such powers at the time this Act comes into force, shall be deemed to have been invested with the like powers under this section.

CHAPTER III.

GENERAL JURISDICTION.

Power to fix local limits of jurisdiction.

16. The Local Government shall, by notification in the official Gazette, fix, and may by like notification from time to time vary, the local limits of the jurisdiction of any Civil Court or person invested with the powers of a Civil Court under this Act.

Extent of original jurisdiction of District Judge,

17. Subject to the provisions of the Code of Civil Procedure, section fifteen—

(*a*) the jurisdiction of a District Judge extends to all original suits cognizable by the Civil Courts;

of Subordinate Judge,

(*b*) the jurisdiction of a Subordinate Judge extends to all suits in which the amount or value of the subject-matter in dispute does not exceed ten thousand rupees; and

of Munsif

(*c*) the jurisdiction of a Munsif extends to all suits in which such amount or value does not exceed five hundred rupees:

Provided that the Local Government may from time to time, by notification in the official Gazette, confer upon any Munsif jurisdiction in suits in which the amount or value of the subject-matter in dispute exceeds five hundred rupees but does not exceed one thousand rupees,

and may by like notification withdraw such jurisdiction.

Appeals from Munsifs and Subordinate Judges.

18. Appeals from the decrees and orders of Munsifs and Subordinate Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Judge:

Provided

Provided that the Judicial Commissioner may from time to time, subject to such restrictions as he thinks fit, order that all or any of the appeals from the decrees and orders of a Munsif shall be preferred to such Subordinate Judge as may be mentioned in the order; and such appeals shall thereupon be preferred accordingly.

Power to refer to Subordinate Judge appeals from Munsifs.

19. Every District Judge may from time to time, subject to the orders of the Judicial Commissioner, refer to any Subordinate Judge under his control any appeals pending before him from the decrees and orders of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

Appeals from District and Additional Judges.

20. Appeals from the decrees and orders of District Judges and Additional Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the Judicial Commissioner.

When Judicial Commissioner may receive second appeal.

21. When the decision of a Subordinate Judge, District Judge or Additional Judge passed in appeal confirms the decree or order of the Court of first instance, such decision shall, subject to the provisions of the Code of Civil Procedure, section six hundred and twenty-two, be final; but when such decision reverses or modifies such decree or order, the Judicial Commissioner may receive a second appeal if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, he is of opinion that a further consideration of the case is requisite for the ends of justice.

Appeals from decrees, &c., passed before Act comes into force.

22. For the purposes of sections eighteen to twenty-one (both inclusive), all decrees, orders and decisions passed before the date on which this Act comes into force shall be deemed—

(*a*) if passed by a Commissioner,—to have been passed by a District Judge;

(*b*) if passed by a Deputy Commissioner or the Civil Judge of Lucknow, or by an Assistant or Extra-Assistant Commissioner in exercise of enhanced powers

Section 18.—For this section substitute the following:—	.....	Act XX of 189(
18. (1) An appeal from a decree or order of a Subordinate Judge in an original suit or proceeding shall, when an appeal is allowed by law, lie— (*a*) to the District Judge where the value of the suit in which, or in any proceeding arising out of which, the decree or order was made did not exceed five thousand rupees, and (*b*) to the Judicial Commissioner in any other case.) An appeal from a decree or order of a Munsif shall, when an appeal is allowed by law, lie to the District Judge.) The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals from all or any of the decrees or orders of any Munsif shall be preferred to such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly."		
.....	Section 22 is repealed.	Act XIV of 1891.

powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—to have been passed by a Subordinate Judge; and

(*c*) if passed by an Assistant or Extra-Assistant Commissioner otherwise than as aforesaid, or by a Tahsíldár,—to have been passed by a Munsif.

Presiding officer of Court not to try suit, &c., in which he is interested.

23. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any proceeding connected with or arising out of such suit or appeal.

Mode of disposing of such suit, &c.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section twenty-five of the Code of Civil Procedure.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Local Government, which may transfer the case to the High Court of the North-Western Provinces for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal of the case.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to invest with Small Cause Court jurisdiction.

24. The Local Government may invest, within such local limits as it from time to time fixes, any District Judge, Additional Judge or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Judge or Munsif so invested.

25. The

9	*Section* 23.—For the last paragraph of this section substitute the following:— "In the event of an appeal being preferred from a judgment or order passed by a Judicial Commissioner or an Additional Judicial Commissioner in any other capacity, or in which he has any personal interest, the case shall be heard by the Additional Judicial Commissioner or the Judicial Commissioner, as the case may be."	.....	Act XIV

25. The Judicial Commissioner may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

The proceedings herein referred to are the following (that is to say):—

(1) Proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or Act IX of 161 (*to amend the law relating to minors*).

(2) Applications for permission to sue or appeal as a pauper.

(3) Applications for certificates under Act XXVII of 1' 60 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred, and may either dispose of them himself, or, with the sanction of the Judicial Commissioner, transfer them to any other Subordinate Judge or Munsif under his control.

26. Subject to the provisions of the last clause of section twenty-five all proceedings transferred under that section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases: Disposal of proceedings so transferred.

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the Judicial Commissioner, if an appeal from the decision of the District Judge in such proceedings is allowed by the law in force for the time being.

Section 27 "Dist.

27. For the purposes of the Indian Divorce Act, the Judicial Commissioner shall, throughout the said territories Jurisdiction under Divorce Act.

THE OUDH CIVIL COURTS ACT, XIII OF 1879.

Amendments.	Repeal.	Amending Act.
.....	*Section* 25.—Clause (*3*) of this section, relating to applications for certificates under Act XXVII of 1860, is repealed.	First Schedule of Act VII of 1889.
.....	Section 26 is repealed.	Act XIV of 1891.

territories to which this Act applies, be deemed to be the Commissioner of the Division.

CHAPTER V.

MISCONDUCT OF OFFICERS.

Suspension and removal of Judicial Commissioner.

28. The Judicial Commissioner may, with the previous sanction of the Governor General in Council, be suspended or removed by the Local Government.

Suspension or removal of subordinate judicial officers by Local Government.

29. Any District Judge, Additional Judge, Subordinate Judge or Munsif may be suspended or removed by the Local Government.

Suspension of Subordinate Judge or Munsif by Judicial Commissioner.

30. The Judicial Commissioner may, whenever he sees urgent necessity for so doing, suspend any Subordinate Judge or Munsif under his control.

Whenever the Judicial Commissioner exercises this power, he shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsif by District Judge.

31. Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control.

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the Local Government, through the Judicial Commissioner, a full report of the case, with the evidence (if any); and the Local Government shall make such order thereon as it thinks fit.

Removal, &c., of ministerial officers of Judicial Commissioner's Court.

32. The Judicial Commissioner may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary.

Removal, &c., of ministerial officers of Judges' Courts.

33. The Judicial Commissioner, and, subject only to the general control of the Judicial Commissioner, the Judges of the District Courts, may remove or suspend the ministerial officers of such Courts, or fine them in an amount not exceeding one month's salary.

34. Any

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Removal, &c., of ministerial officers of Subordinate Judges' and Munsifs' Courts.

34. Any Subordinate Judge or Munsif may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Judicial Commissioner, may, on appeal or otherwise, reverse or modify every such order.

The Judicial Commissioner (or the District Judge within whose jurisdiction such Court is situate) may by order suspend or remove any such ministerial officer.

Recovery of fines.

35. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

CHAPTER VI.

MISCELLANEOUS.

Petition-writers.

36. The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules—

(*a*) declaring what persons shall be permitted to practise as petition-writers in the Civil Courts of Oudh; and

(*b*) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section shall be punished with fine which may extend to fifty rupees.

Bar of redemption-suits when mortgage executed before 13th February, 1844.

37. When a mortgagee shall, under or by virtue of a mortgage executed before the thirteenth of February, 1844, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Nothing

Redemption-suits not barred where fixed term for redemption had not expired before 13th February, 1856.

Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856: provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

Vacations.

38. Subject to such orders as may from time to time be issued by the Governor General in Council, and to the approval of the Local Government, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in the Court subordinate to him.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

Pending proceedings.

39. All cases pending before the Judicial Commissioner under the Oudh Laws Act, 1876, section twenty-eight, on the first day of August, 1879, shall be disposed of as if this Act had not been passed, [illegible] XIV of

and all other proceedings pending on that day shall be heard and disposed of by the Courts established under this Act that would have had jurisdiction if they had been in existence when such proceedings were instituted.

For the purposes of this section, all appeals pending on the said day shall—

(*a*) if preferred from the decrees, orders or decisions of Commissioners,—be deemed to be appeals from District Judges;

(*b*) if preferred from the decrees, orders or decisions of Deputy Commissioners or the Civil Judge of Lucknow or of Assistant Commissioners, or Extra-Assistant Commissioners acting in exercise of enhanced powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—be deemed to be appeals from Subordinate Judges; and

(*c*) if

(*c*) if preferred from the decrees or orders of Assistant Commissioners or Extra-Assistant Commissioners otherwise acting or of Tahsíldárs,—be deemed to be appeals from Munsifs.

SCHEDULE.

ACTS REPEALED.

(See section 3.)

Number and year.	Title of Act.	Extent of repeal.
Act X of 1870 ...	The Land Acquisition Act, 1870.	So much of section 3 as declares the Commissioner of a Division to be a principal Civil Court of original jurisdiction in Oudh.
Act XXXII of 1871	The Oudh Civil Courts Act, 1871.	The whole Act, except section 40.
Act XVIII of 1876 ...	The Oudh Laws Act, 1876.	Sections 21, 28 and 43.
Act XIV of 1878 ...	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 3.

.....	The schedule is repealed.	Act XIV of 1891.

ACT No. XIV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 5th September, 1879*).

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble. WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title. **1.** This Act may be called "The Hackney-carriage Act, 1879":

Commencement. and it shall come into force at once;

Saving. but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Interpretation-clause. **2.** In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners, constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities. **3.** The Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

When

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits. Power of committees to make rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law: Confirmation and publication of rules.

Provided that the Local Government may, at any time, rescind any such rule. Power of Local Government to rescind rules.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it; and Power to make rules for cantonments.

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned: Power to extend operation of rules beyond limits of municipality or cantonment.

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section three or section four may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*)

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining

determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may repuire driver to take him to Court.

10. If at the time any dispute mentioned in section nine arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

THE RANGOON PORT COMMISSIONERS ACT, 1879.

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ACT No. XV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 12th September, 1879*).

An Act to appoint Commissioners for the Port of Rangoon.

Preamble. WHEREAS it is expedient to provide for the management of the affairs of the Port of Rangoon, and for that purpose to appoint Commissioners; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Rangoon Port Commissioners Act, 1879":

Commencement. and it shall come into force on such date as the Local Government may notify in the local official Gazette.

Nothing herein contained shall affect the powers conferred on the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28.

Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context,—

"port": "port" means the Port of Rangoon as defined for the purposes of this Act:

'river": "river" means any flowing water within a radius of eight statute-miles from Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark:

"high-water mark"

"high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year : "high-water mark":

"low-water mark" means the lowest point reached by ordinary ebb spring-tides at any season of the year : "low-water mark":

"vessel" includes anything made for the conveyance by water of human beings or of property : "vessel":

"master," when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel : "master":

"pilot" means a person for the time being authorized by the Local Government to pilot vessels : "pilot":

"owner" includes also any agent to whom a vessel is consigned : "owner":

"land" includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth ; and "land":

"commissioners" means the Commissioners appointed under this Act. "commissioners."

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the limits of the port for the purposes of this Act, and may, from time to time, with the like sanction, and by a like notification, alter such limits. Power to define and alter limits of port.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

CHAPTER II.

OF THE APPOINTMENT AND REMOVAL OF THE COMMISSIONERS.

Appointment of Commissioners.

4. The Local Government may, from time to time, appoint persons, either by name or by virtue of their office, to be Commissioners for the Port of Rangoon:

Provided that—

(*a*) the number of such Commissioners holding office at one and the same time shall not be more than twelve or less than nine:

(*b*) the number of such Commissioners who are persons holding salaried offices under Government shall not be—

(i) less than four or more than six when the total number of Commissioners is eleven or twelve;

(ii) less than three or more than five when the total number of Commissioners is nine or ten.

Tenure of office.

5. Commissioners shall hold office for two years, and may thereafter be reappointed; but the Local Government may at any time accept the resignation of any Commissioner.

Removal of Commissioners.

6. Notwithstanding anything in sections four and five, the Local Government may,—

(*a*) with the previous sanction of the Governor General in Council, by written order direct that any Commissioner therein named shall cease from a specified date to be a Commissioner;

(*b*) by written order direct that any Commissioner therein named who, without the written consent of the Local Government, absents himself from six consecutive meetings of the Commissioners shall cease to be a Commissioner:

and the Commissioner so named shall cease to be a Commissioner accordingly.

Chairman and Vice-chairman.

7. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-chairman, and cancel such appointment. Such Chairman and Vice-chairman

Vice-chairman respectively shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appointments, &c., to be notified.

8. Every appointment and removal from office made and resignation accepted under sections four, five, six and seven shall be notified in the local official Gazette.

CHAPTER III.

Powers and Duties of Commissioners.

Administration vests in Commissioners.

9. Subject to the powers conferred on, and reserved to, the Governor General in Council and the Local Government respectively by this Act or any other enactment for the time being in force, the execution and administration of the powers and trusts created and declared by this Act shall be vested in the Commissioners.

Power to hold property.

10. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immoveable property within or without the limits of the port; and, with the same sanction, may lease, mortgage, sell or exchange such property.

Transfer of Government property to Commissioners.

11. The property specified in schedule A hereto annexed shall be vested in the Commissioners:

Provided that—

(*a*) no buildings or other permanent structures shall be erected thereon, except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(*b*) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local Government subsequently o the date on which this Act comes into force;

(*c*) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may

define

define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

Compensation to municipality for loss of income.

12. As compensation for loss of income heretofore derived from any source of revenue transferred from the municipality of Rangoon to the Commissioners, the Local Government may assign annually to the said municipality, from the money received by the Commissioners, such sum not exceeding the average of such income during the five years next preceding the date on which this Act comes into force as the Local Government thinks fit.

Acquisition of land.

13. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the Commissioners of the compensation awarded under that Act, the land shall vest in the Commissioners.

Property to be in trust.

14. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners shall be held and applied by them in trust for the purposes of this Act.

Works to be constructed.

15. The works to be constructed and carried out by the Commissioners may include the following:—

(*a*) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(*b*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandise landed or to be shipped;

(*c*) laying down moorings and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;

(*d*) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(*e*) the construction and application of dredges and other machines for cleaning, deepening and improving

proving the bed of the river within the limits of the port;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon, the river or the port;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act;

(*h*) all such other works and appliances as may in the opinion of the Commissioners be necessary for carrying out the provisions of this Act.

Power to make Port-rules.

16. With the previous sanction of the Local Government, the Commissioners may from time to time make rules consistent with this Act and with the Indian Ports Act, 1875, for any of the following purposes (that is to say):—

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for

(*g*) for otherwise carrying out the purposes of this Act.

Such rules, when sanctioned by the Local Government, shall be published in the local official Gazette, and shall thereupon have the force of law.

Control of pilots within the port.

17. Within the limits of the port, pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels.

Free public landing-places.

18. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public shall be permitted to embark and land free of charge.

Removal of bathing and landing-places.

19. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places (if any) as the Local Government may direct.

Appliances for shipping, &c., for sea-going vessels.

20. For the expeditious and convenient shipment and landing of goods in and from sea-going vessels within the port, and for the storing of such goods, the Commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged: provided that—

(*a*) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;

(*b*) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

21. When

Sea-going vessels compelled to use wharves, &c.

21. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping or for landing or for shipping goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

From and after such publication the Commissioners may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accommodation sufficient, all sea-going vessels compelled to use wharves, &c.

22. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, direct that no goods shall be landed or shipped from or in any sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Inland vessels compelled to use wharves, &c.

23. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels, and that, within certain

certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel while within such limits to anchor, fasten or lay within fifty yards of low-water mark without the consent of the Commissioners.

If after such publication any such vessel, while within such limits, so anchors, fastens or lays, the Commissioners may cause the same to be removed out of the said limits.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke any such order.

Power to order removal of vessels from wharves, &c.

24. The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the Commissioners may charge in respect of such vessel such sum as they think fit not exceeding one hundred rupees for each day of twenty-four hours or portion of such day after the expiry of such thirty-six hours during which such vessel remains at such wharf, quay, stage, jetty or pier.

Power to exempt from obligation to use wharves, &c.

25. Notwithstanding anything contained in sections twenty-one, twenty-two and twenty-three, the Local Government may, by notification in the local official Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also, by like notification, cancel or modify any such notification.

Discharge

26. Whenever any goods are landed by the Commissioners

missioners from any vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B hereto annexed, and may in any such receipt include all goods landed from such vessel during one day. No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed. of liability on goods landed.

27. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Local Government approves of or appoints in that behalf. Wharves, &c., to be appointed under Customs Acts.

28. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive the same. Dues at customs-wharves, &c.

29. Save as hereinafter provided, no person except the Commissioners shall, after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring. Private wharves, &c., prohibited.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which

may

may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

Power to permit erection of private wharves, &c., within the port subject to conditions.

30. The Local Government may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Wharves, &c., beyond port-limits.

31. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is, after the date on which this Act comes into force, without the consent in writing of the Local Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Scale of tolls and charges to be framed.

32. The Commissioners shall frame—

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by others than their own servants; and

(*c*) a scale of charges for any services to be performed

formed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scales shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published by the Commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the Commissioners may, from time to time, alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

Commissioners' lien for tolls and charges.

33. For the amount of all tolls, dues, rates and charges levied under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

34. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in

in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the Commissioners or, with the consent of the Chief Officer of Customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of ship-owners' lien for freight.

35. Upon the production to any officer appointed by the Commissioners in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien: provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouses.

36. Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Chief Officer of Customs, to the public warehouses; and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat; and shall also publish in the local official Gazette and in two local newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If

If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and shall be subject to the power of sale hereinafter given.

Recovery of tolls and charges by sale of goods.

37. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien for freight, primage or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or

such

such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

Application of sale-proceeds.

38. The proceeds of every such sale shall be applied as follows:—

(*a*) in payment of the expenses of the sale;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section thirty-three from the priority of the lien of the Commissioners;

(*c*) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same: provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Commissioners why such application was not so made; and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Recovery of tolls and charges by distraint of vessel.

39. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Commissioners may apply to the Collector of Customs of the port, and such Collector shall distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid;

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds

ceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls, &c., are paid.

40. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel, in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to property of Commissioners.

41. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Rangoon may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress: provided that if, at the time

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of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or the Harbour-Master's or Master-Attendant's Department, the case shall not be cognizable by the Magistrate under this section.

River Police.

42. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of Police, to be called "River Police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any property vested in, and on any moneys paid or payable to, the Commissioners under this Act.

The River Police shall be enrolled under Act No. V of 1861 (*for the Regulation of Police*).

Local Government may delegate powers to survey steamers.

43. The Local Government may, from time to time, delegate to the Commissioners all or any of the powers conferred on the Chief Commissioner of British Burma within the port under the Burmese Steamer Survey Act, 1871, and may at any time resume the same.

CHAPTER IV.

OF THE GENERAL CONTROL OF GOVERNMENT.

Commissioners' acts subject to approval.

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government; and the Local Government may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act.

Control over works and expenditure.

45. The Local Government may from time to time make rules consistent with this Act as to the cost and class of works which the Commissioners may execute, and the objects to which the receipts of the Commissioners shall be applied.

Local Government may order survey.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the cost

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cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Governor General in Council may revoke powers of Commissioners.

48. If at any time the Governor General in Council is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Governor General in Council may, by notification in the *Gazette of India*, to be republished in the local official Gazette, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Governor General in Council for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Governor General in Council may, if no such measures to his satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may direct the Local Government to assume such powers; and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

CHAPTER V.

Of Suits by and against the Commissioners.

Chairman or Vice-chairman to sue.

49. The Commissioners shall sue and be sued in the name of their Chairman or of their Vice-chairman.

50. No.

Commissioners not personally liable.

50. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commissioners liable for breach of trust.

51. Every Commissioner shall be liable for any misapplication of money entrusted to the Commissioners to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation of suits.

52. No suit shall be brought against the Commissioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall dismiss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Indemnity to Commissioners for acts of Harbour-Master, &c.

53. The Commissioners shall not be answerable for any act or default of any Master-Attendant or Harbour-Master, or of any Pilot, or of any deputy or assistant of any of the officers above-mentioned, or of any person acting under the authority or direction of any such officer or assistant, done within the limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

CHAPTER VI.

OF MEETINGS, ESTABLISHMENT, CONTRACTS AND THE GENERAL CONDUCT OF BUSINESS.

A Commissioner may be secretary.

54. The Commissioners may, if they think fit, elect one of their number to be secretary to the Commissioners.

Seal and place of business.

55. The Commissioners shall have a common seal inscribed "Port Commissioners, Rangoon," and an office where the Commissioners shall meet for the transaction of business.

Monthly meetings and remuneration for attendance.

56. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Commissioners shall, subject to such conditions as the Local Government may from time to time prescribe, receive such fees as the Local Government may from time to time direct: provided that such fees shall not be given for attendance at such meetings oftener than once a month.

Chairman and Vice-chairman to attend.

57. The Chairman and Vice-chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary and special meetings.

58. The Chairman, or, in the event of his illness or absence from Rangoon, the Vice-chairman, may whenever he thinks fit, and shall upon a requisition made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings; all other meetings are ordinary meetings.

Notice of meetings.

59. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of business at meetings.

60. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(*a*) the Chairman, or, in his absence, the Vice-chairman, shall be President; if both be absent, the Commissioners

Commissioners may elect one of their number to be President:

(*b*) the President may, with the consent of the meeting, adjourn the meeting from time to time;

(*c*) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called; at ordinary meetings any business may be transacted of which due notice has been given;

(*d*) the quorum necessary for the transaction of business shall be such number, not less than five, as the Commissioners may from time to time prescribe;

(*e*) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote; and, in case of equality of votes, the President shall have a second or casting vote;

(*f*) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting and shall be signed by the President and at least one other member who was present at such meeting; a copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Secretary to the Local Government.

Mode of giving effect to resolutions.

61. The Commissioners may appoint one or more of their number to carry out their resolutions, and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose.

Proceedings not invalidated by defect of form.

62. No proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form.

Schedule of establishment.

63. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. The Local Government may sanction such schedule, or modify and sanction the same. Every such schedule

so

2	*Section* 60.—To clause (*d*) of this section add the following proviso:— "but no Commissioner who is prohibited as hereinafter provided from voting or taking part in any proceedings shall be counted in the quorum so far as regards such proceedings."	.....	Act III
	Section 60.—To clause (*e*) of this section add the following proviso:— "Provided that no Commissioner shall vote or take part in any proceedings relating to any loan, contract or work in which he is pecuniarily interested."	.....	Act III o
4	*Section* 60.—After clause (*f*) of this section add the following clause:— "(*g*) all meetings of the Commissioners shall be open to the public, unless the President shall in any particular case otherwise direct."	... ..	A

so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than, or beyond, that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers.

Commissioners are public servants.

64. The Commissioners and the servants of the Commissioners other than artizans, porters and labourers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Commissioners may make bye-laws.

65. The Commissioners may from time to time make bye-laws consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters.

The making of contracts.

66. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Rangoon, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-chairman and by two other Commissioners, of whom one shall be an *ex officio* Commissioner, and shall be sealed with the common seal of the Commissioners: provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid without

ion 63.—To this section add the following:— "or to any officer or servant, the period of whose employment shall not exceed three consecutive months at any one time, and whose salary shall not exceed one hundred rupees a month."	.....	Act III of 1892.

without the assent in writing of the Local Government.

No contract not executed as in this section provided shall be binding on the Commissioners.

Manner in which work to be sanctioned.

67. No new work the estimated cost of which exceeds five hundred rupees shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof has been approved by the Commissioners at a meeting.

In case the estimated cost of such new work exceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the local official Gazette.

And, in case the estimated cost of any such work exceeds fifty thousand rupees, the Local Government shall not sanction the same until such plan and estimate have been submitted to the Governor General in Council and approved by him.

Money to be kept in Bank.

68. All moneys raised by and paid to the Commissioners under this Act shall be kept in the Bank of Bengal in Rangoon, and no disbursement of such funds, or any part thereof, shall be made—

(*a*) in excess of such sum as may in that behalf be from month to month appropriated by the Commissioners at a meeting; or

(*b*) except under the signature of the Chairman or Vice-chairman.

Submission of reports, accounts and estimates.

69. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may from time to time direct—

(*a*) statements of their receipts and disbursements under this Act;

(*b*) reports of all works executed and proceedings taken by them under this Act;

(*c*) an estimate of their probable receipts for the financial

financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

70. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the local official Gazette.

CHAPTER VII.

PENALTIES.

Commissioners not to be interested in contract, &c.;

71. Any Commissioner or servant of the Commissioners who directly or indirectly lends money to the Commissioners, or becomes interested in any contract made by, or on behalf of, the Commissioners, or participates, or agrees to participate, in any profits of any work done by order or on behalf of the Commissioners, shall forfeit his office or employment, as the case may be, and shall be incapable afterwards of being a Commissioner or holding employment under the Commissioners, and shall further be punished with fine which may extend to five hundred rupees:

but may be shareholder in a Company so interested.

Provided that no Commissioner or servant of the Commissioners shall be liable to a penalty under this section solely by reason of his being a shareholder in any duly incorporated or registered Company which may lend money to, or make contracts with, or do work for or on behalf of, the Commissioners.

Infringement of section 21, 22, 23, 25 or 30.

72. Whoever infringes any order issued under section twenty-one, twenty-two or twenty-three, or any condition prescribed under section twenty-five or thirty, shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend

extend to one hundred rupees for every day such order is infringed.

Infringement of rules.

73. Whoever infringes any rule framed by the Commissioners under section sixteen shall be liable to a fine which may extend to fifty rupees; and, if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the Commissioners.

Punishment in default of fine.

74. Whenever any person is sentenced to a fine under this Act, the convicting Court may direct that, in default of payment of the fine, such person shall suffer simple imprisonment for a term which shall not exceed the following scale:—

(*a*) two months in the case of continuing infringement of section twenty-nine;

(*b*) one month in the case of continuing infringement of sections twenty-one, twenty-two and twenty-three;

(*c*) fourteen days if the fine does not exceed fifty rupees;

(*d*) one month if the fine does not exceed one hundred rupees;

(*e*) two months if the fine exceeds one hundred rupees.

Prosecutions.

75. Prosecutions under this Act may be instituted by the Commissioners or any person authorized by them in this behalf and not otherwise.

CHAPTER VIII.

MISCELLANEOUS.

Saving of previous port-regulations.

76. All acts done and proceedings taken by the Strand Bank Committee before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers, landing-places, tolls, charges, rates and dues within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules or regulations would have been lawful if this

Act

Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of dues as revenue.

77. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.

SCHEDULE A.

(*Referred to in section 11*).

I.—All the land belonging to Government between the river on the south and the Strand Road and the Monkey Point Battery Road on the north, but not including those roads, from Monkey Point on the east to and including the Canal on the west, except—

(*a*) the land occupied by the Municipality of Rangoon;

(*b*) the land occupied by the Military Authorities as an approach to Godwin's wharf and to an extent of 100 feet on either side thereof;

(*c*) the land occupied by the Military Authorities for the defences at Monkey Point;

(*d*) the land assigned for railway-purposes;

(*e*) the land occupied on the east side of East Street by the Department of Public Works;

(*f*) the land occupied by Customs-officers' quarters and by the Master-Attendant's residence, office and compound.

II.—All other land belonging to Government within the limits of the present Port of Rangoon lying within a line drawn at fifty yards from high-water mark, except—

(*a*) the land occupied by the Rangoon Gaol sawmill;

(*b*) the land occupied as Government timber-depôts at Ahlone and Monkey Point;

(*c*) the

(*c*) the Dalla Dockyard and the lands attached thereto.

SCHEDULE B.

(*Referred to in section 26*).

RECEIPT FOR GOODS.

By the Port Commissioners, Rangoon.

Landed during the day of from the , by the Port Commissioners, Rangoon, the noted in the margin; contents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to be stated.*

For the Port Commissioners, Rangoon.

RANGOON;
The day of . } *A. B.*

ACT No. XVI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 30th September, 1879*).

An Act to restrict the transport of Salt by Sea.

Preamble.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Transport of Salt Act, 1879":

Local extent.

It extends to the western coast of British India north of Cochin and to the sea within a distance of a marine league from such coast;

Commencement.

and it shall come into force at once.

Penalties for carrying salt in certain vessels.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Exceptions.

3. Nothing in section two applies to

(*a*) salt covered by a permit granted under ~~section twenty-eight~~ or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawána granted under Madras Regulation I of 1805, section eleven, ~~clause third~~;

(*b*) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor

of

of Bombay in Council may, from time to time, exempt from the operation of section two.

Power of stoppage, search and arrest

4. When any officer empowered by the Governor of Bombay in Council, whether by name or office, to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may require such vessel to be brought-to, and thereupon may

(*a*) enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(*d*) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

Penalties for resisting officer.

5. Any master of a vessel refusing or neglecting to bring-to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation of vessel and cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

Jurisdiction.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Power to exempt from operation of Act.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

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ACT No. XVII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th October, 1879.*)

An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

Preamble.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Dekkhan Agriculturists' Relief Act, 1879":

Commencement.

and it shall come into force on the first day of November, 1879.

Local extent

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "money" includes agricultural produce, implements and stock:

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to "reside" where he so earns his livelihood.

CHAPTER II.

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Applic of thi chapt

3. The provisions of this chapter shall apply to—

(*a*) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(*b*) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (*b*) are the following (namely) :—

(*w*) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(*x*) suits for the recovery of money due on contracts other than the above and suits for rent or for

moveable

THE RAIPUR AND KHATTRA LAWS ACT, XIX OF 1879.

.....	Section 3 is repealed	...	...

THE DEKKHAN AGRICULTURISTS' RELIEF ACT, XVII OF 187

5	.....	*Section* 3.—In clause (*a*) of this section the words and figures "on or after the first day of November, 1879" is repealed.	India of 1
6	.....	*Section* 3.—In clause (*b*) of this section the words "and instituted on or after the same date" is repealed.	India A of 189

THE RAIPUR AND KHATTRA LAWS ACT, XIX OF 1879.

.....	Section 3 is repealed		

THE DEKKHAN AGRICULTURISTS' RELIEF ACT, XVII OF 1879.

5	.....	*Section* 3.—In clause (*a*) of this section the words and figures "on or after the first day of November, 1879" is repealed.	India Act of 1895.
6	.....	*Section* 3.—In clause (*b*) of this section the words "and instituted on or after the same date" is repealed.	India Act No of 1895.

moveable property, or for the value of such property, or for damages; and

(*y*) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure or sale, when the defendant, or any one of the defendants not being merely a surety for the principal debtor, is an agriculturist; and

(*z*) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

Certain suits to be instituted in Courts of first class Subordinate Judges.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section three, clause (*b*), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

Subordinate Judges not to act as Judges of Small Cause Courts.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November 1879, to have been withdrawn.

Jurisdiction of Subordinate Judge and Small Cause Court.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

Summons to be for final disposal of suit.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

In

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do. Court to examine defendant as witness.

8. In suits of the descriptions mentioned in section three, clauses (*w*) and (*x*), no party shall be entitled without the permission of the Court to file a written statement. Written statement.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment. Record of evidence.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies. No appeal to lie.

CHAPTER III.

Of Suits and other Proceedings to which Agriculturists are Parties.

11. Every suit of the description mentioned in section three, clause (*w*), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere. Agriculturists to be sued where they reside.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section three, clause (*w*), in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist, History of transactions with agriculturist-debtors to be investigated.

and in any suit of the descriptions mentioned in section three, clause (*y*) or clause (*z*),

the

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

Mode of taking account.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account

account according to the following rules (that is to say) :—

(*a*) separate accounts of principal and interest shall be taken :

(*b*) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor as part of the transactions :

(*c*) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(*d*) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable :

(*e*) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided :

(*f*) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(*g*) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall

shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

Interest to be allowed.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(*a*) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or

(*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

T[illegible]e to [illegible]n in [illegible]r cases.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

Agriculturist-

16. Any agriculturist may sue for an account of money

money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor. Debtors may sue for accounts.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt. Amount of debts in such cases to be determined according to foregoing provisions.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree in a suit to recover the debt. Decree under section 16 may provide for payment by instalments. Execution of decrees under this section.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him. Payment into court in cases under section 16.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same as it considers him Power to discharge judgment debtor.

him able to pay, and grant him a discharge from the balance.

Power to direct institution of insolvency-proceedings.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

Power to fix instalments in execution.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

Arrest and imprisonment in execution of decree for money abolished.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

Immoveable property exempted from attachment and sale unless specifically pledged.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section twenty-nine.

The provisions of section thirty-one shall, *mutatis mutandis*, apply to any property so dealt with.

Chapter not to apply to Village-Munsifs' Courts.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless such

such provision has been specially extended thereto under the power hereinafter conferred.

CHAPTER IV.

OF INSOLVENCY.

Subordinate Judges to have jurisdiction in agriculturists' cases.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of this Act, no such application or proceeding shall be dealt with by any other Court.

Agriculturists may apply for adjudication in cases not provided for by Code.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

Modification of section 351 of the Code.

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

Receiver.

27. No person other than the Názir of the Court shall be appointed as Receiver, and no Receiver shall be entitled to commission.

Proof of debts.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

29. No

Immoveable property not to vest in Receiver, but may be managed for benefit of creditors.

29. No immoveable property of the insolvent shall vest in the Receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the Receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors by letting it on lease or otherwise:

Provided that, if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-Revenue Code, 1879, section 150, clauses (*b*), (*d*) and (*e*).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

Secured debts.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure.

Where

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the Receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale-proceeds shall be applied, first, to the payment of the debt, and the balance, if any, shall be paid to the Receiver.

Insolvent incompetent to sell, &c., property dealt with under sections 29 and 30.

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let, or any part thereof.

Scheduled debts discharged.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine, or let by him under section thirty.

Appeals barred.

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

CHAPTER V.

OF VILLAGE-MUNSIFS.

Appointment of Village-Munsifs.

34. The Local Government may, from time to time, appoint any Pátel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village or for such village and for any other villages the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

Suits triable by them.

35. Every Village-Munsif so appointed shall take cognizance of suits of the description mentioned in section

section three, clause (*w*), when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

Jurisdiction of other Courts excluded.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Proviso.

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

District Judge's power of revision.

36. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

Power of Local Government to make rules.

37. The Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

CHAPTER VI.

OF CONCILIATION.

Appointment

38. The Local Government may, from time to time,

Section 36.—In this section after the words "or misconduct of the village-munsif" and before the words "and pass" add the following:—

"or on the ground that the village-munsif has exercised a jurisdiction not vested in him by law."

time, appoint any person other than an officer of Police to be a Conciliator and may cancel any such appointment. of Conciliators.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a civil Court between two or more parties one of whom is an agriculturist residing within any local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force, is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them. Matters which may be brought before Conciliator.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place. Procedure thereupon.

If such person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance. Day for attendance may from time to time be postponed.

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable When all parties appear, Conciliator to endeavour

to reconcile them.

amicable settlement or to submit such matter to arbitration.

Conciliator to hear statements of witnesses, &c.

42. The Conciliator shall hear but shall not record the statement of any witness, and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

Any agreement arrived at to be reduced to writing.

43. If on the day on which the case is first heard by the Conciliator, or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

Explanation.—A Conciliator may be appointed arbitrator under this section.

Procedure when agreement finally disposes of case.

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall, after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

Procedure where agreement is for

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it

to

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to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure. reference to arbitration.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect. Certificate to be given to applicant if conciliation fails.

47. No suit, and no application for execution of a decree passed before the date on which this Act comes into force, to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party, shall be entertained by any civil Court unless the plaintiff produces such certificate as aforesaid in reference thereto. Suit, or application for execution, not to be entertained by civil Court unless such certificate is produced.

48. In computing the period of limitation prescribed for any such suit the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded. Allowance to be made in period of limitation. See 48, Rep by act XVIII of 1881

49. The Local Government may from time to time make rules— Local Government to make rules.

(*a*) regulating the procedure before Conciliators in matters not provided for by this Act;

(*b*) fixing the charges to be made by Conciliators for anything done by them under this chapter; and

(*c*) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

50. The District Judge shall inspect, supervise and District

Judge to inspect, &c.

and control the proceedings, under chapter II and chapter IV of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.

District Judge may withdraw case from Subordinate Judge,

51. The District Judge may—

(*a*) transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under chapter II or chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge; or

or sit with Subordinate Judge as a Bench for trial of any case.

(*b*) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

Appointment of Assistant or Subordinate Judge to aid District Judge.

52. The Local Government shall appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II and chapter IV of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Puna, Satára, Sholapur and Ahmadnagar:

Provided that, if the Local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

Of revision.

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II or chapter IV of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit;

and

and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and, if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

Special Judge.

54. The Local Government from time to time may, and if the Government of India so direct shall, appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators, and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

CHAPTER VIII.

Registration by Village-Registrars.

Appointment of Village-Registrars.

55. The Local Government may, from time to time,—

(*a*) appoint such persons as it thinks fit, whether public

public officers or not, to be Village-Registrars for such local areas as it may, from time to time, prescribe;

(*b*) direct the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and

(*c*) delegate to any person, by name or in virtue of his office, the powers conferred on it by this section;

and may cancel any such appointment, direction or delegation.

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer, unless such instrument is written by, or under the superintendence of, and is attested by, a Village-Registrar:

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.

57. When any persons, one of whom is an agriculturist residing in any such local area, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which such agriculturist, or, when there are several such agriculturists, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties and receiving from them the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence, and after reading the same aloud

or

or causing it to be so read in the hearing of the parties shall require them to execute it in his presence.

Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar, and also, if any of the parties thereto is unable to read such instrument, by two respectable witnesses. Attestation of such instruments.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration. Registration of instruments by Village-Registrars.

As soon as all the parties to any instrument have executed it before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by, or under the superintendence of, the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated. Consideration to be fully stated in every instrument executed before a Village-Registrar.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument modifies, or wholly or partly supersedes, a previous instrument such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification. Previous instruments to be produced.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877; and no instrument Registration under this Act to be deemed equivalent to

registration under Indian Registration Act, 1877.

instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

Village-Registrars to be subordinate to the Inspector-General of Registration.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

Exemption of instruments to which Government or any officer of Government is a party.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party, to be executed before a Village-Registrar.

Power of Local Government to make rules.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

CHAPTER IX.

OF RECEIPTS AND STATEMENTS OF ACCOUNT.

Agriculturists entitled to written receipts

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

To annual statements of account:

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand,

from

from the person claiming under such instrument, a statement up to that date of his account under such instrument.

To have account made up from time to time in a pass-book.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

Penalty for contravention of sections 64 to 66.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

Legal Practitioners.

Pleaders, &c., excluded in certain cases.

68. No pleader, vakíl or mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif, or to any case cognizable by a Subordinate Judge under this Act, the subject-matter whereof does not exceed in amount or value one hundred rupees:

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator, Village-Munsif or Subordinate

Subordinate Judge, to employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party:

Provided also that a Subordinate Judge may permit a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear before him on behalf of any party to any case of the description aforesaid in which, for reasons to be recorded by him in writing, he deems it desirable that the party should have such assistance.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

Power of Court to appoint pleader for agriculturist.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakíl or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

CHAPTER XI.

MISCELLANEOUS.

Mortgages, &c., to be valid only when written.

70. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

71. Every

71. Every instrument executed before this Act comes into force and purporting to create any mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be deemed to be an instrument required by section 17 of the Indian Registration Act, 1877, to be registered; and any such instrument which before the passing of this Act was not so required to be registered may, notwithstanding anything contained in the said Indian Registration Act, 1877, be registered under that Act within one year from the date on which this Act comes into force. All mortgages hitherto executed to be registered.

Every Village-Registrar appointed under this Act shall be deemed to be a sub-Registrar for the purpose of so registering such instruments; and the local area for which he is appointed shall be deemed for such purpose to be his sub-district.

Nothing in this section applies to an instrument purporting to create a mortgage, lien or charge in favour of the Government or of any officer of the Government in his official capacity.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say) :— Limitation.

(*a*) when such suit is based on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

(*b*) in any other case,—six years :

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall, for the purposes of this Act, be final. Decision as to whether person is an agriculturist, final.

74. Except in so far as it is inconsistent with this Act, Civil Pro-

hapter XI.—In this chapter insert the following section, namely:— "71. The last clause of section 258 of the Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act, in any case where an acknowledgment by the judgment-creditor for the same is produced, or when the payment is either admitted by him or proved." Bar of application of section 258, Act XIV of 1882.	.....	India Act VI of 1895.
Section 71.—After this section insert the following section, namely:— "71A. In taking an account under section 13 or in any suit under this Act where interest is chargeable, such interest shall be awarded at the following rates:— (*a*) the rate, if any, agreed upon between the parties or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or (*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties or the persons (if any) through whom they claim, to set off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem reasonable." Rate of interest allowable on taking an account.	.....	India Act VI of 1895.
Section 72.—In this section after the word "agriculturist" where it afterwards occurs, add the words "in any of the districts aforesaid."	.....	India Act of 1895.
ction 72.—In this section after the word "agriculturist" where it first occurs, add the words "in any of the districts of Puna, Satara, Sholapur and Ahmadnagar."	.....	India Act VI of 1895.

cedure Code to apply in Subordinate Judges' Courts.

Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

Additional power to make rules.

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

Rules to be published.

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

THE LEGAL PRACTITIONERS ACT, 1879.

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ACT No. XVIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879.)

An Act to consolidate and amend the law relating to Legal Practitioners.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title. Commencement. 1. This Act may be called "The Legal Practitioners Act, 1879": and shall come into force on the first day of January, 1880.

Local extent. This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On

2. On and from the first day of January, 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein. Repeal of enactments.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act. Saving of rules, &c.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act. References to repealed enactments.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"Judge" means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated: "Judge":

"Subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX of 1850 or Act No. XI of 1865: "Subordinate Court"

"Revenue-office" includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents: Revenue-office":

"Legal practitioner" means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent. "Legal practitioner."

CHAPTER II.—*Of Advocates, Vakíls and Attorneys.*

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court, or as an Advocate on the roll of the Chief Court of the Panjáb, shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court, Advocates and Vakíls.

Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office:

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

Attorneys of High Court.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered and in any Revenue-office.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

CHAPTER III.—*Of Pleaders and Mukhtárs.*

Power to make rules as to qualification, &c., of Pleaders and Mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(*a*) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate Courts,

Courts, and of the Revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*b*) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*c*) the fees to be paid for the examination and admission of such persons ; and

(*d*) the suspension and dismissal of such Pleaders and Mukhtárs.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government. Publication of rules.

7. On the admission, under section six, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices, specified therein. Certificates to Pleaders and Mukhtárs.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

Pleaders on enrolment may practise in Courts and Revenue-offices.

8. Every Pleader holding a certificate issued under section seven may apply to be enrolled in any Court or Revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

Mukhtárs on enrolment may practise in Courts.

9. Every Mukhtár holding a certificate issued under section seven may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a Mukhtár in any such civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead and act in any such criminal Court and any Court subordinate thereto.

No person to practise as Pleader or Mukhtár unless qualified.

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate:

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII of 1869.

Provided that persons who have been admitted as Revenue-agents before the first day of January, 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal, may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under Bengal Act No. VIII of 1869 (*to amend the procedure in suits between*

between Landlord and Tenant) or under any other Act for the time being in force regulating the procedure in suits between landholders and their tenants and agents.

Power to declare functions of Mukhtárs.

11. Notwithstanding anything contained in the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

Suspension and dismissal of Pleaders and Mukhtárs convicted of criminal offence.

12. The High Court may suspend or dismiss any Pleader or Mukhtár holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss

any Pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any Pleader or Mukhtár holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in subordinate Court or Revenue-office.

14. If any such Pleader or Mukhtár practising in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid, or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall

shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Suspension pending investigation.

Any District Judge, or with his sanction any Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue-authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practice any Pleader or Mukhtár charged before him or it under this section.

Every report made to the High Court under this section shall

(*a*) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(*c*) when made by the Magistrate of the District, be made through the Sessions Judge;

(*d*) when made by any Revenue-officer subordinate to the Chief Controlling Revenue-Authority, be made through such Revenue-authorities as the Chief Controlling Revenue-Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-authority through whom or which it is made.

Power to call for record in case of acquittal under section 14.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section fourteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

16. Notwithstanding

Power to make rules for Mukhtárs on appellate side of High Court.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (*a*), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(*a*) the qualifications and admission of proper persons to be Mukhtárs practising on the appellate side of such Court;

(*b*) the fees to be paid for the examination and admission of such persons;

(*c*) the security which they may be required to give for their honesty and good conduct;

(*d*) the suspension and dismissal of such Mukhtárs; and

(*e*) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.—*Of Revenue-agents.*

Power to make rules as to qualifications, &c., of Revenue-agents.

17. The Chief Controlling Revenue-Authority may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(*a*) the qualifications, admission and certificates of proper persons to be Revenue-agents;

(*b*) the fees to be paid for the examination and admission of such persons;

(*c*) the suspension and dismissal of such Revenue-agents; and

(*d*) declaring what shall be deemed to be their functions, powers and duties.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

18. On

Certificates to Revenue-agents.

18. On the admission of any person as a Revenue-agent under section seventeen, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such Revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue-Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

Enrolment of Revenue-agent.

19. Every Revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority; and, subject to such rules as the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

No person to act as agent in Revenue-offices unless qualified.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate:

Provided

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

Dismissal of Revenue-agent convicted of criminal offence.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

Dismissal of Revenue-agent guilty of unprofessional conduct.

22. The Chief Controlling Revenue-Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when Revenue-agent is so charged in subordinate office.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority; and

and such Authority shall proceed to acquit, suspend or dismiss him.

Any Revenue-officer not inferior to a Collector, and, with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue-Authority, suspend from practice any Revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

Power to Chief Controlling Revenue-Authority to call for record.

24. The Chief Controlling Revenue-Authority, in any case in which a Revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Revenue-Authority, may call for the record and pass such order thereon as seems fit.

CHAPTER V.—*Of Certificates.*

Fee for certificates.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed:

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

Dismissed practitioners to surrender certificates.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-Authority (as the case may be) orders him to deliver the same.

CHAPTER VI.—*Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.*

High Court and Chief

27. The High Court shall, from time to time, fix and

and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in subordinate Courts. Controlling Revenue-Authority to fix fees on civil and revenue-proceedings.

The Chief Controlling Revenue-Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Nothing in this section applies to the agents mentioned in the proviso to section twenty. Exception as to agents mentioned in section 20.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done. Agreements with clients.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made. Power to modify or cancel agreements.

30. Such an agreement shall exclude any further claim of the Pleader, Mukhtár or Revenue-agent beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such Agreements to exclude further claims.

services

services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

Reservation of responsibility for negligence.

31. A provision in any such agreement that the Pleader, Mukhtár or Revenue-agent shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Pleader, Mukhtár or Revenue-agent, shall be wholly void.

CHAPTER VII.—*Penalties.*

Of persons illegally practising as Pleaders, Mukhtárs or Revenue-agents.

32. Any person who practises in any Court or Revenue-office in contravention of the provisions of section ten or section twenty shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as Pleader, Mukhtár or Revenue-agent whilst he has been contravening the provisions of either of such sections.

On suspended or dismissed Pleader, &c., failing to deliver certificate.

33. Any Pleader, Múkhtár or Revenue-agent failing to deliver up his certificate as required by section twenty-six shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

34. Any Pleader, Mukhtár or Revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Pleader, Mukhtár or Revenue-agent in any Court or Revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment

onment in the civil jail for a term which may extend to six months.

Revision of fines.

35. Every order under section thirty-two, thirty-three or thirty-four shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-Authority where the order has been passed by an officer subordinate to such Authority.

Penalty for receiving or giving commission.

36. Whoever commits any of the following offences:—

(*a*) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any legal practitioner for such employment;

(*c*) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.—*Miscellaneous.*

Local Government to appoint examiners.

37. To facilitate the ascertainment of the qualifications mentioned in sections six and seventeen respectively, the Local Government shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

38. Except as provided by sections four, five, sixteen, twenty-seven, thirty-two and thirty-six, nothing in this Act applies to Advocates, Vakíls and Attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted,

constituted, or to Mukhtárs practising in such Court, or to Advocates enrolled by the Chief Court of the Panjáb.

Suspension or dismissal of person holding Mukhtár and Revenue-agent's certificates.

39. When any person who holds a certificate as a Mukhtár under section seven and a certificate as a Revenue-agent under section eighteen is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

Pleaders, &c., not to be suspended or dismissed without being heard.

40. Notwithstanding anything hereinbefore contained, no Pleader, Mukhtár or Revenue-agent shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the Authority suspending or dismissing him.

Advocates of Panjáb Chief Court.

41. In the Panjáb Courts Act, 1877, after section forty-one, the following shall be inserted (that is to say):—

"42. The Chief Court may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be Advocates of such Court.

"Subject to such rules, the Chief Court may admit and enrol such and so many Advocates as it thinks fit; and such Advocates shall be entitled to appear for the suitors of such Court, and to plead or to act, or to plead and act, for such suitors according as such Court may by its rules determine, and subject to such rules.

"The Chief Court may dismiss any Advocate so enrolled or suspend him from practice:

"Provided that no such Advocate shall be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the Chief Court."

FIRST SCHEDULE.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2*).

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865 ...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865...	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 ...	To extend to the Sadr Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877...	The Panjáb Courts Act, 1877 ...	Sections forty-two, forty-three, forty-four and forty-five.

SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES.

(*See section 25*).

I.

For a certificate authorizing the holder to practise as a Pleader—

(*a*) In the High Court and any subordinate Court —rupees fifty :

(*b*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c*) In all other subordinate Courts—rupees twenty-five :

(*d*) In

(*d*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen:

(*e*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a Mukhtár—

(*f*) In the High Court and any subordinate Court—rupees twenty-five:

(*g*) In any Court of Small Causes in a Presidency-town—rupees fifteen:

(*h*) In all other subordinate Courts—rupees fifteen:

(*i*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees ten:

(*j*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a Revenue-agent—

(*k*) In the office of the Chief Controlling Revenue-Authority and in any Revenue-office subordinate to such Authority—rupees fifteen:

(*l*) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten:

(*m*) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

ACT No. XIX OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879).

An Act to amend the law in force in Thánás Raipur and Khattra.

Preamble.

WHEREAS the territory comprised in the tháná of Raipur (including the independent Police outpost of Simlapal) and the tháná of Khattra has been transferred from the district of Mánbhum to the district of Bankúra;

And whereas the said territory, when included in the district of Mánbhum, formed portion of the Chutiá Nágpur Division, which is a Scheduled district under Act No. XIV of 1874 (the Scheduled Districts Act, 1874);

And whereas it is expedient that the law in force in the said territory should be the same as the law in force in the district of Bankúra; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Raipur and Khattra Laws Act, 1879":

Commencement.

and it shall come into force at once.

Laws of Bankúra to apply.

2. All enactments which on the first day of October, 1879, were in force in the district of Bankúra and not in the said territory shall be deemed to have come into force in the said territory on that day; and all enactments which on that day were in force in the said territory and not in the district of Bankúra shall be deemed to have been repealed on and from that day in the said territory.

Other laws repealed.

Pending proceedings.

3. All proceedings commenced before any authority in the said territory before the said first day of October,

October, 1879, and still pending shall be disposed of by such authority as the Local Government may direct and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a Scheduled district.

4. The said territory shall be deemed to have ceased to be a Scheduled district on the said first day of October, 1879.

ACT No. XX OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th November, 1879).

An Act to provide for the better prevention of Glanders and Farcy among Horses.

Preamble. WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Glanders and Farcy Act, 1879":

Local extent. It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal;

Commencement. and it shall come into force at once.

Interpretation-clause. 2. In this Act, unless there is something repugnant in the subject or context,—

"horse" "horse" includes also ponies, asses, mules and jennets:

"diseased." "diseased" means affected with glanders or farcy.

Local Government may apply the Act. 3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government to appoint Inspectors. 4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue

An Act to amend the Glanders and Farcy Act, 1879.

X of 1879.

WHEREAS it is expedient further to amend the Glanders and Farcy Act, 1879; It is hereby enacted as follows:—

Amendment of section 1, Act XX, 1879.

1. In section 1 of the said Act, as amended by Act XXIV of 1886, the words "except the territories respectively administered by the Governor of Fort St. George in Council and the Lieutenant-Governor of Bengal" are repealed.

virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended, or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased; otherwise restored.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the

Local

2. To section 7 of the said Act the words "Provided that when the Inspector is also a Veterinary Practitioner so appointed he may make the examination himself" shall be added, and in sections 7 and 8, for the word "Surgeon," wherever it occurs, the word "Practitioner" shall be substituted.

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Local Government may from time to time by rule prescribe, destroyed..

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Vexatious entries, searches and seizures.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9; or moving horse contrary to section 11.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section nine, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for

(*b*) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Validation of destruction of diseased horses previous to passing of this Act.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

ANDERS AND FARCY ACT, XX OF 1879.

	Repeal.	Amending
	Section 15 is repealed	Act XII of

3. To the said Act, as amended by the Repealing and Amending Act, 1891, the following section shall be added, namely :— XII of 1891.

Additio a section Act XX 1879.

"15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder."

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THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.

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ACT No. XXI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th November, 1879).

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Preamble. WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879":

Extent. It extends to the whole of British India;

to

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

Saving of other laws and of treaties.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Repeal.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued, under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Political Agent."

"Political Agent" means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India:

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India; and

"European British subject."

"European British subject" means a European British subject as defined in the Code of Criminal Procedure.

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

Exercise of powers of Governor

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has

has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

General in places beyond British India, and delegation thereof.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Notification of exercise or delegation of such powers.

~~6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place to be a Justice of the Peace~~; and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

Appointment, powers and jurisdiction of Justices of the Peace.

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Confirmation of existing Political Agents and Justices.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

Extension of criminal law of British India to British subjects out of British India.

(*a*) to

(*a*) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(*b*) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

Liability of British subjects for offences committed out of British India.

9. When a European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agent to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be such, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar against further proceedings against him under this Act in respect of the same offence at any place beyond the limits of British India.

Power to direct copies of depositions and exhibits to be received in evidence.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed

committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

CHAPTER IV.

EXTRADITION.

Arrest and removal of persons other than European British subjects escaping into British India.

11. When an offence has been committed or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

if such Political Agent thinks that the offence is one which ought to be inquired into in such State;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the *Gazette of India*...

Direction and execution of warrant.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

13. Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject

subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

Requisitions for extradition by the Executive of any part of British dominions or Foreign power.

14. Whenever a requisition is made to the Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the

the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Magistrate to inform Political Agent or Local Government.

16. No person arrested on a warrant issued by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

Person arrested to be released after certain time if not proceeded against.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

17. The provisions of the Code of Criminal Procedure in respect of bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Bail.

CHAPTER V.

MISCELLANEOUS.

18. The Governor General in Council may, from time to time, make rules to provide for—

Power to make rules.

(1) the confinement, diet and prison-discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

Execution of commissions issued by Foreign Criminal Courts.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal:

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION ELEVEN.

Sections 206, 208 and 224; sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 468, both inclusive; sections 471 to 477, both inclusive.

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